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Ethics Commission



25 Van Ness Ave., Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

87-39-0009411 REVO

**SAN FRANCISCO ETHICS COMMISSION
NOTICE OF REGULAR MEETING**

July 13, 2009 5:30 P.M.

and AGENDA

Room 408 City Hall

1 Dr. Carlton B. Goodlett Place, San Francisco

GOVERNMENT
DOCUMENTS DEPT

JUL - 9 2009

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- I. Call to order and roll call.
- II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.
- III. Consideration of request for waiver from compensated advocacy ban by Patrick Buscovich, a member of the Board of Examiners, Department of Building Inspection. At its April 13, 2009 meeting, the Ethics Commission approved a formal advice letter that the compensated advocacy ban (San Francisco Campaign and Governmental Conduct Code section 3.224) does not apply to a member of the Board of Examiners. Because the District Attorney has dissented from the advice, staff recommends that the Commission grant Mr. Buscovich a waiver that would allow him to represent private parties before City officers and employees as part of his duties as a structural engineer while serving on the Board of Examiners. A staff memo will be available from the Commission office and website. (Discussion and possible action.)
- IV. Consideration of possible amendments to Chapter 2, Article III of the San Francisco Campaign and Governmental Conduct Code to define "officer"; to clarify the application of conflict of interest prohibitions to City officers and amend the ban on contracting under section 3.222 to permit officers to enter settlement agreements and allow the Ethics Commission to waive the ban; and to name Chapter 2 of Article III the Government Ethics Ordinance. A staff report, the draft amendments and a legislative digest are available from the Commission office and on its website. (Discussion and possible action.)
- V. Consideration of amendments to create a new Chapter 5 in Article III of the San Francisco Campaign and Governmental Conduct Code to prohibit City officers and employees from soliciting a donation to a nonprofit organization when (1) the donation will be used to support a City department, (2) the solicited donor has business with the department being supported, and (3) the officer or employee soliciting the donation works for, oversees or regularly interacts with that department. A staff report, the draft amendments and a legislative digest are available from the Commission office and on its website. Supervisor Daly, who

sponsored the legislation, or a member of his staff will attend the meeting to answer questions. (Discussion and possible action.)

- VI. Discussion of Fiscal Year 2009-2010 budget outcomes, including final budget adopted by the Board of Supervisors' Budget and Finance Committee and the status of the Election Campaign Fund, including fund balance and funding needs for upcoming election cycles. (Discussion.)

- VII. Closed session. (Discussion and possible action.)

a. Closed session held pursuant to the Ralph Brown Act, Government Code section 54957(b) and the Sunshine Ordinance section 67.10(b): Public Employee Performance Evaluation: Executive Director, Ethics Commission

b. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9 (a) and (c) and Sunshine Ordinance section 67.10(d) to discuss anticipated litigation as plaintiff.

Conference with Legal Counsel: Anticipated litigation as plaintiff

Number of possible cases: 1

- VIII. Discussion and vote regarding closed session action and deliberations. (Discussion and possible action.)

a. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose any action taken or discussions held in closed session regarding public employee performance evaluation.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: public employee performance evaluation.

b. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose any action taken or discussions held in closed session regarding anticipated litigation.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: anticipated litigation.

- IX. Minutes of the Commission's regular meeting of June 8, 2009. (Discussion and possible action.)

- X. Executive Director's Report. An update of important Ethics Commission staff activities since the previous monthly meeting. (Discussion.)

- XI. Items for future meetings. Commissioners may propose items for future agendas and the Commission may determine the priority of these items. (Discussion.)

- XII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**
- XIII. Adjournment.**

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

If any materials related to an item on this agenda have been distributed to the Ethics Commission after distribution of the agenda packet, those materials are available for public inspection at the Ethics Commission, 25 Van Ness Avenue, Suite 220, San Francisco, during normal office hours.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing devices.

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Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct, Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102; telephone (415) 252-3100; fax (415) 252-3112 and web site www.sfgov.org/ethics

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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

JAMIEENNE S. STUDLEY
CHAIRPERSON

SUSAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: July 8, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

Re: Waiver from Compensated Advocacy Ban for Patrick Buscovich

A handwritten signature in black ink, appearing to be "J. St. Croix", is written over the "From:" line.

By letter dated March 19, 2009, Patrick Buscovich, a practicing structural engineer who has been appointed to the structural engineer's seat on the Board of Examiners, Department of Building Inspection, requested a waiver from section 3.224 of the San Francisco Campaign and Governmental Conduct Code (C&GCC). At its meeting on April 13, 2009, the Ethics Commission voted 5-0 to approve a formal advice letter to state the Mr. Buscovich is not subject to the compensated advocacy ban in section 3.224. Because it did so, it was not necessary for the Commission to consider whether to grant a waiver from section 3.224 to Mr. Buscovich.

Since that time, the City Attorney has concurred with the Commission's advice; however, the District Attorney has not. Because the District Attorney stated in writing that she does not agree with the Ethics Commission and City Attorney on the formal advice, Mr. Buscovich does not have immunity from prosecution for any alleged violation of section 3.224 if he engages in compensated advocacy on behalf of his clients. For this reason, staff is bringing Mr. Buscovich's request for waiver back to the Commission for consideration at the July 13 meeting. The attached April 13, 2009 memo sets forth the reasons why staff recommends that the Commission grant the waiver request.

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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

JAMIEEN S. STUDLEY
CHAIRPERSON

SUSAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: April 13, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

Re: Request for Waiver from member of Board of Examiners

Patrick Buscovich, a structural engineer appointed to the Structural Engineer seat on the Board of Examiners of the Department of Building Inspection, has requested a waiver from the compensated advocacy provisions of section 3.224 of the San Francisco Campaign and Governmental Conduct Code ("C&GC Code"). Section 3.224 prohibits a City officer from receiving any compensation to communicate on behalf of any other person with any other City officer or employee with the intent to influence a governmental decision. As reflected in the draft formal advice letter enclosed with the Commission's packet, staff has concluded that the compensated advocacy provisions do not apply to Mr. Buscovich because he is not a City "officer" as that term is defined in the City's Administrative Code. If the Commission adopts the proposed advice letter, then Mr. Buscovich's request for a waiver will be moot. But if the Commission rejects staff's proposed advice, then staff recommends that the Commission consider and approve the waiver request.

Under section 3.224(c), the Ethics Commission may waive the ban for any member of a City board or commission who, by law, must be appointed to represent any profession, trade, business, union or association. In determining whether or not to grant a waiver, the Commission may consider the ability of the City to recruit qualified individuals to fill the position if the waiver is not granted, the ability of the member to engage in his or her particular vocation if the waiver is not granted, and any other factors the Commission deems relevant. Ethics Comm. Reg. 3.224-2(b).

In September 2005, the Commission, by a vote of 3-1 (Hansen, Lynn, McCoy supporting and Anglade opposing), granted Mr. Buscovich a waiver from section 3.224 in order for him engage in uncompensated advocacy on behalf of other persons while serving as a member of the Unreinforced Masonry Building Appeals Board. The material facts have not changed significantly since that time. For the reasons discussed below, staff recommends that the Commission approve Mr. Buscovich's waiver request.

Analysis

1. *May the Commission consider a waiver for the structural engineer seat on the Board of Examiners that will be occupied by Mr. Buscovich?*

C&GC Code section 3.224(c) states that the Commission may waive the compensated advocacy ban for any member of a City board or commission who, by law, must be appointed to represent any profession, trade, business, union or association. Building Code section 105A.1.4 requires at least one member of the Board of Examiners to be a licensed structural engineer. Mr. Buscovich is a licensed structural engineer who will occupy the structural engineer seat. Thus, he will be a board member who by law represents a profession, trade, business, union or association. Accordingly, he is eligible to request, and the Commission may determine whether to grant, a waiver from the compensation advocacy ban under C&GC Code section 3.224(c).

2. Is a waiver necessary to enable the City to recruit qualified individuals to fill the structural engineer seat on the Board of Examiners?

As a licensed structural engineer who makes his living in San Francisco, Mr. Buscovich informed staff that he designs projects and interprets building codes for his clients. In the course of this work, he regularly contacts and seeks to influence employees and officers in the Department of Building Inspection, the Planning Department and other City agencies on behalf of his clients. Mr. Buscovich also informed staff that there are approximately 40 licensed structural engineers in the City. Based on this information, it appears that there is a limited pool of qualified candidates who could fill the structural engineer seat on the Board of Examiners. That pool is further restricted by the fact that seats on other City boards and commissions, including the Building Inspection Commission and the Unreinforced Masonry Building Appeals Board, also must be filled by structural engineers. Thus, staff believes that a waiver may be necessary to enable the City to recruit qualified individuals to fill the structural engineer seat on the Board of Examiners.

3. Is a waiver necessary to enable Mr. Buscovich to pursue his vocation?

Mr. Buscovich informed staff that he is a practicing engineer who represents his clients in daily contact with the Department of Building Inspection as well as other City departments. Because he seeks, among other things, permits on behalf of his clients, he regularly seeks to influence government decisions on behalf of his clients.

The ban in section 3.224 is personal to the City officer. The ban does not apply to "an associate, partner or employee of an officer of the City and County, unless it is clear from the totality of the circumstances that the associate, partner or employee is merely acting as an agent of the City and County officer." C&GC Code § 3.224(b). Mr. Buscovich states that he has only one partner and a handful of associates at his firm. His partner rarely appears before City agencies, and Mr. Buscovich states that he cannot delegate his representation of clients, particularly with respect to the interpretation of City's building code sections – some of which Mr. Buscovich helped to write – to either his partner or associates.

Conclusion

Staff recommends that the Commission grant the waiver request.



ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

JAMIEENNE S. STUDLEY
CHAIRPERSON

SUSAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

June 16, 2009

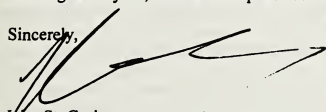
Patrick Buscovich
Patrick Buscovich & Associates
235 Montgomery Street, Suite 823
San Francisco, CA 94104-2906

Dear Mr. Buscovich:

I am enclosing a formal advice letter from the Ethics Commission regarding whether the compensated advocacy ban under San Francisco Campaign and Governmental Conduct Code section 3.224 applies to you as a member of the Board of Examiners. I am also enclosing letters from the City Attorney's Office and District Attorney's Office regarding the same question. As you know, a formal opinion provides a requester immunity from subsequent enforcement if the material facts are as stated in the request for advice, and only if both the City Attorney and District Attorney concur with the Commission's advice. In this case, as you can see from the enclosed letters, while the City Attorney has concurred in the advice, the District Attorney has not. For that reason, you cannot rely on the Ethics Commission's letter as a grant of formal immunity. In other words, the compensated advocacy ban in section 3.224 applies to you as a member of the Board of Examiners.

At this time, I'd suggest that you bring again to the Commission a request for a waiver from section 3.224. Please let me know if you are available to attend the Commission's meeting on July 13, 2009 at 5:30 p.m. in Room 408 City Hall.

Sincerely,


John St. Croix
Executive Director

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CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

JON GIVNER
Deputy City Attorney

DIRECT DIAL: (415) 554-4694

E-MAIL: jon.givner@sfgov.org

April 23, 2009

John St. Croix
Executive Director
San Francisco Ethics Commission
30 Van Ness Avenue
San Francisco, CA 94102

Re: Formal advice to Patrick Buscovich

Dear Mr. St. Croix:

This Office is in receipt of your formal advice to Patrick Buscovich regarding the application of Campaign and Governmental Conduct Code section 3.224. This Office concurs with the Ethics Commission's conclusion in that advice letter. Please do not hesitate to contact me if you have any questions about this matter.

Very truly yours,

DENNIS J. HERRERA
City Attorney

A handwritten signature in black ink, appearing to read "Jon Givner", written over a horizontal line.

Jon Givner
Deputy City Attorney

JUN-12-2009 16:03 From:

To: 415 252 3112

P.2/18

CITY AND COUNTY OF SAN FRANCISCO



KAMALA D. HARRIS
District Attorney

OFFICE OF THE DISTRICT ATTORNEY

MARC D. KATZ
Assistant District Attorney

DIRECT DIAL: (415) 551-9578
E-MAIL: marc.katz@sfgov.org

Via Facsimile And U.S. Mail

June 12, 2009

John St. Croix
Executive Director
Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102-6053
FAX: (415) 252-3112

**Re: Formal Opinion Concerning The Application Of The Compensated Advocacy
Ban To Members Of The San Francisco Board Of Examiners**

Dear Mr. St. Croix:

In accordance with the process set forth in San Francisco Charter Section C3.699-12, the District Attorney's Office has reviewed the Ethics Commission's Formal Advice Letter dated April 13, 2009 concerning the application of the compensated advocacy ban contained in the San Francisco Campaign and Governmental Conduct Code ("C&GC Code") section 3.224 to members of the San Francisco Board of Examiners. The District Attorney's Office does not concur with the Ethics Commission's position. For the reasons set forth below, the District Attorney's Office believes that section 3.224 is applicable to Board of Examiner Members and prohibits members from paid advocacy. In the our view, the Ethics Commission opinion is at odds with the language and intent of the statute and contravenes the purpose and spirit of the City's conflict-of-interest laws. It is similarly at odds with long-standing state good-government laws, including the California Political Reform Act, on which the City's statutes are modeled. The City's conflict-of-interest laws are to be construed broadly to ensure that public officials maintain their undivided loyalty to the citizens and do not use their office for personal gain.

Background

Patrick Buscovich is a licensed structural engineer who, on behalf of his private clients, interprets building codes and regularly contacts the Department of Building Inspection (DBI), the Planning Department and other City agencies. On behalf of these private clients, Buscovich attempts to influence DBI and other City agency decisions to benefit those clients. The Building Inspection Commission ("BIC") has recently appointed Buscovich to the Board of Examiners ("BOE"). BIC's mission statement indicates that BIC is a "policy-making and supervisory body" that manages DBI.

JUN-12-2009 16:03 From:

To:415 252 3112

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CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

Letter to John St. Croix

Re: Formal Advice Letter Concerning Paid Advocacy Ban

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BOE's Mission Statement notes its purpose:

The purpose of the Board is to hear and determine the requests by the public as to whether new materials, new methods or types of construction comply with the standards of safety The Board also has the power to determine reasonable interpretation of the provisions of the San Francisco Building Code, and to hear the appeals from the Director's condemnation order involving construction methods, assemblies or materials or where safety is involved.

The authority and duties of the Board of Examiners are set forth in San Francisco's Building Code. The BOE, for example, has the authority to determine whether variances from the Building Code should be approved. (SF Building Code §105A.1.1.2.)

According to documents posted on BOE's website, Buscovich has appeared before the BOE on behalf of private clients seeking variances.

The question before the Ethics Commission is whether C&GC Code section 3.224 prohibits Buscovich, as a member of the Board of Examiners, from communicating on behalf of clients or other persons with the Board of Examiners, Department of Building Inspection, or other City officers or employees with the intent to influence government decisions.

C&GC Code Section 3.224 and Canons of Statutory Construction

The question presented requires the interpretation of a statute, C&GC Code section 3.224. There is a well-established methodology for interpreting statutes. The overriding goal is to understand the intent of the law, looking first at the words themselves, and ensuring that the statute makes sense in connection to other related statutes and does not lead to absurd results. The California Supreme Court put it this way:

In construing statutes, we must determine and effectuate legislative intent. To ascertain intent, we look first to the words of the statutes. Words must be construed in context, and statutes must be harmonized, both internally and with each other, to the extent possible. Interpretations that lead to absurd results or render words surplusage are to be avoided.

(*Woods v. Young* (1991) 53 Cal.3d 315, 323 [internal quotation marks and citations omitted].)

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

Letter to John St. Croix
 Re: Formal Advice Letter Concerning Paid Advocacy Ban
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C&GC Code section 3.224 bans compensated advocacy:

a) Prohibition. *No officer of the City and County* shall directly or indirectly receive any form of compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City and County with the intent to influence a government decision. (Emphasis added.)

The precise question raised is this: Is a member of the Board of Examiners an "officer of the City and County" as used in Section 3.224?

The word "officer" is not defined in the section, so we must proceed to devise the intent of the law by making sure the words are "construed in context" and "harmonized" with other related statutes, careful to avoid interpretations that lead to "absurd results." (*Woods v. Young*, 53 Cal.3d at 323.)

Findings and Purpose of the City's Conflict-of-Interest Laws

In order to construe section 3.224 in context and harmonize it with related statutes, we examine the other statutes in the same Chapter of the Campaign and Governmental Conduct Code. Section 3.224 is part of Chapter 2, entitled "Conflict of Interest and Other Prohibited Activity." The first two sections of this Chapter leave no doubt that the overarching goal of these laws is to preserve public trust by codifying expansive conflict-of-interest prohibitions for public officials.

Section 3.200, entitled "Findings and Purpose" includes the following pronouncements about public office and public responsibility:

(a) The people of the City and County of San Francisco declare that public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust. To assure that the governmental processes of the City and County promote fairness and equity for all residents and to maintain public trust in governmental institutions, the people of the City and County declare that they have a compelling interest in creating laws regulating conflicts of interest and outside activities of City officers and employees.

(b) The proper operation of the government of the City and County of San Francisco requires that public officers and employees be independent, impartial, and responsible to the people and that public office and employment not be used for personal gain. The public interest, therefore, requires that officers and employees of the City and County be prohibited from making, participating in making or otherwise seeking to influence governmental decisions in which they have a financial interest

JUN-12-2009 16:03 From:

To: 415 252 3112

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CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

Letter to John St. Croix

Re: Formal Advice Letter Concerning Paid Advocacy Ban

Page 4

(d) City and County contracts should be, and should appear to be, awarded on a fair and impartial basis. The practice of members of Boards and Commissions of the City and County contracting with the City and County creates the potential for, and the appearance of, favoritism or preferential treatment by the City and County. **Prohibiting members of Boards and Commissions of the City and County from contracting with the City and County will eliminate both actual and perceived favoritism or preferential treatment without creating unnecessary barriers to public service.**

(e) Government decisions of officers and employees of the City and County should be, and should appear to be, made on a fair and impartial basis. The practice of former officers and employees communicating with their former colleagues on behalf of private interests and the practice of current officers of the City and County communicating with other officers and employees on behalf of any other person for compensation creates the potential for, and the appearance of, undue influence, favoritism or preferential treatment. **Prohibiting former officers and employees from communicating orally, in writing, or in any other manner with their former colleagues for specified periods of time and prohibiting current officers from communicating orally, in writing, or in any other manner with other officers and employees of the City and County on behalf of any other person for compensation will eliminate both actual and perceived undue influence, favoritism or preferential treatment without creating unnecessary barriers to public service. (Emphasis added.)**

The Voter Information Pamphlet for Proposition E on the November 4, 2003 ballot reinforces the general intent and purpose of the Campaign and Governmental Conduct Code, which was enacted by Proposition E's passage. The "Proponent's Argument In Favor of Proposition E," authorized by the Board of Supervisors, stated:

Faith in government is the cornerstone of democracy. To maintain the public's faith in local government, San Franciscans have enacted various conflict of interest laws. **Those laws seek to ensure that City officials make decisions their decisions in a manner that is fair and evenhanded for all of our City's residents.**

Proposition E updates, clarifies and strengthens the City's conflict of interest laws. . . . (Emphasis added.)

And the "Rebuttal to Opponent's Argument Against Proposition E," also authorized by the Board of Supervisors, stated that it "has been nearly 30 years since the City conducted a

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

Letter to John St. Croix
 Re: Formal Advice Letter Concerning Paid Advocacy Ban
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complete review of local laws that govern the conduct of **City officials and employees.**"
 (Emphasis added.)

As noted in its April 13, 2009 opinion, the Ethics Commission had earlier described the intent of the compensated advocacy ban in a Formal Advice Letter to William W. Fay: "the Ordinance was designed specifically to address the possibility of undue influence and/or conflicts of interest that arise from a City officer's representation of a private interest before any agency operating exclusively within the City and County of San Francisco." (Ethics Comm. Buscovitch Advice Letter, April 13, 2009, at 3, citing Fay Advice Letter, May 15, 2001.)

The question posed by the Fay Advice Letter also involved the compensated advocacy ban, specifically whether Fay's appointment to the Planning Commission prevented him from meeting with the San Francisco Redevelopment Agency concerning the sale of a piece of property for which Fay was acting as the real estate agent. The Ethics Commission opined that the compensated advocacy did apply. The Ethics Commission noted that Fay was an "officer" because the Administrative Code expressly defined "officer" to include members of commissions appointed by the Mayor, and Planning Commissioners were appointed by the Mayor. But the gravamen of the Fay Advice Letter was not Fay's status as an "officer" but whether the prohibition against compensated advocacy "before any City and County board or commission" included the Redevelopment Agency. The Ethics Commission concluded that the Redevelopment Agency was included even though the Agency acts as an "administrative arm of the state" and is not technically part of City government, as it does not operate pursuant to Charter or local ordinance. In reaching this conclusion, the Ethics Commission embraced an expansive view of the compensated advocacy ban:

Courts must consider the object to be achieved and the evil to be presented by the legislation . . . [and] compare the provisions to the construction given other similar statutes, and examine ballot materials as aids to ascertain the intent of the electorate.

The initiative was designed to eliminate undue influence by officeholders retained as paid lobbyists for projects requiring City approval. To reduce undue influence, [the compensated advocacy ban] outlaws the practice of City Commissioners . . . representing special interests for pay before City Commissions and Boards. . .

[T]he materials state that the initiative was intended to apply to "City government," and suggests strongly that the compensated advocacy ban applies to "City government" as that term is understood in its usual and ordinary sense. For instance, the ballot materials speak to an end to decision-making by "insiders," a ban against "conflicts of interests" by City commissioners acting as lobbyists

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Letter to John St. Croix
 Re: Formal Advice Letter Concerning Paid Advocacy Ban
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before City agencies, an encouragement to citizens to "serve San Francisco honestly and responsibly," and a removal of "Influence peddling from City Hall."

There simply is no indication that the voters intended to restrict the compensated advocacy ban to appearances before City agencies that operate pursuant to Charter or local ordinance. Rather, the intent seems clear to be a bar against compensated advocacy by City officers appearing before any body of government acting exclusively within the City where it is clear that undue influence will or may play a role in the decision-making. (Fay Advice Letter at 2-3.)

The Ethics Commission reiterated this intent in its conclusion: "The Ethics Commission finds that the [compensated advocacy ban] was designed specifically to address the possibility of undue influence and/or conflicts of interests that arise from a City officer's representation of a private interest before any agency operating exclusively within the City and County of San Francisco." (Fay Advice Letter at 4.)

We agree with the approach taken by the Ethics Commission in the Fay Advice Letter, because in that matter the Ethics Commission examined the overriding purpose of the compensated advocacy ban and rejected a narrow, technical reading of the statute that would have been at odds with its clear purpose.

The Campaign and Governmental Conduct Code Is To Be Interpreted Broadly.

The Ethics Commission's broad approach in the Fay Advice Letter is now mandated by Campaign and Governmental Conduct Code section 3.202. Section 3.202, entitled "Construction," explicitly states that these provisions are to be interpreted broadly: "This Chapter shall be **liberally construed** in order to effectuate its purposes . . ." (Emphasis added.)

City Law Incorporates The Political Reform Act & Government Code Section 1090, Both of Which Apply to Board of Examiner Members.

C&GC Code Chapter 2 provides additional interpretational guideposts by incorporating the major California conflict-of-interest provisions. Section 3.206 holds that both the California Political Reform Act and California Government Code section 1090 are incorporated into the C&GC Code: "no officer or employee of the City" shall participate in making a decision of the City in which the "officer or employee" has a financial interest; and "no officer or employee of the City" shall make a contract in which he or she has a financial interest." (C&GC Code § 3.206.)

Given that the Campaign and Governmental Conduct Code incorporates the Political Reform Act and Government Code section 1090, it is instructive to examine the prohibitions in

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

Letter to John St. Croix
Re: Formal Advice Letter Concerning Paid Advocacy Ban
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those statutes. By its terms, the Political Reform Act prohibits conflicts of interest from all public officials:

§ 87100. Public Officials; State and Local.

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. (Cal. Gov't Code § 87100, emphasis added.)

The Act defines "public official" as "every member, officer, employee or consultant of a state or local government agency." (Cal. Gov't Code § 82048.) As to the term "member," the California Fair Political Practices Commission has stated that the provision applies to "the members of all boards or commissions with decision making authority." (Cal. Code Regs., tit. 2 § 18701(a)(1).) Members of the Board of Examiners, therefore, are subject to the Political Reform Act.

Government Code section 1090 has been held to be similarly broad. It states:

Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity. (Cal. Gov't Code § 1090.)

For decades California courts have reiterated the purpose and breadth of this conflict-of-interest statute. In *People v. Darby* (1952) 114 Cal.App.2d 412, the appellant contended that section 1090 did not apply to school board members. The court disagreed, explaining that "sound public policy dictates that these officers shall be denied the right to have any personal interest in contracts negotiated by them in their official capacity." The court explained that this conflict-of-interest law is based upon "the ancient truism that one cannot faithfully serve two masters at one and the same time." (*Darby*, 114 Cal.App.2d at 425.) The court also rejected the claim that officials not explicitly listed in 1090 are excluded from its reach:

If the contention of appellant that officers not specified in section 1090 are thereby excluded, all the trustees and directors of reclamation, flood control, swampland, sanitary and levee districts would have no law to nullify their contracts authorized by the vote of those having an interest. Upon no rational

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hypothesis could the Legislature have intended that a trustee of any of such districts should be privileged to have an interest in a contract to be adopted by the district. Clearly then, such a trustee is either a state or county officer and as such is under the ban of section 1090

(*Darby*, 114 Cal.App.2d at 423.)

"The decisional law, therefore, has not interpreted section 1090 in a hyper technical manner" (*People v. Sobel* (1974) 40 Cal.App.3d 1046, 1052.) To the contrary, the courts have taken an expansive view of the public officials subject to the law in order to effectuate the broad public purpose of preventing conflicts of interest.

Board of Examiner Members therefore appear subject to both the Political Reform Act and Government Code section 1090. The C&GC Code's incorporation of these provisions suggest that the C&GC Code too is intended to prohibit the Board of Examiners from conflicts of interest.

A Related Section of the Campaign and Governmental Conduct Code Includes Members of the Board of Examiners as "Officers."

Chapter 1 of Article III of the C&GC Code—the chapter immediately preceding section 3.224—requires that certain City officials file Statements of Economic Interest, which are publicly filed documents that disclose financial interests that could bear on their official duties. Specifically, C&GC Code section 3.1-102 holds as follows:

(a) Officers and Employees. Each officer and employee of the City and County of San Francisco holding a position designated in this Chapter . . . shall file statements disclosing the information required . . . (Emphasis added.)

Who are "officers and employees" of the Department of Building Inspection required to file these financial disclosures? They include Board of Examiner Members. (C&GC Code § 3.1-155.) We find it compelling that BOE Members are counted as "officers" in this section of the C&GC Code section defining who must submit the conflict-of-interest disclosure forms.

Board of Examiner Members Are Also "Officers" In DBI's Statement of Incompatible Activities.

Another component of San Francisco's conflict-of-interest laws is the prohibition against "incompatible activities." C&GC Code section 3.218—part of the same Chapter as the section 3.224—states:

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a) **Prohibition. No officer or employee of the City and County may engage in any employment, activity, or enterprise that the department, board, commission, or agency of which he or she is a member or employee has identified as incompatible in a statement of incompatible activities adopted under this Section. (Emphasis added.)**

This statute required DBI and other departments to adopt so-called Statements of Incompatible Activities that set forth activities that the departments deem to be incompatible with the public duties of the "officers and employees."

The Department of Building Inspection's Statement of Incompatible Activities explicitly defines Board of Examiners Members as "officers":

This Statement of Incompatible Activities is intended to guide **officers and employees of the San Francisco Department of Building Inspection . . . [and] the Board of Examiners For the purposes of this Statement . . . "officer" shall mean, the executive director, . . . a member of . . . the Board of Examiners . . . ; and "employee" shall mean all employees of the Department. (DBI Statement of Incompatible Activities at 1, emphasis added.)**

The Statement further declares that "officers"—defined in the Statement to include Board of Examiner members—are subject to "State and local laws and rules governing the conduct of public officers and employees, including but not limited to" the Political Reform Act, California Government Code section 1090, and the San Francisco Campaign and Governmental Conduct Code. (DBI Statement of Incompatible Activities at 1.)

The Ethics Commission's opinion addresses the "apparent inconsistency" between its recent conclusion and the Statement of Incompatible Activities' inclusion of BOE Members as "officers." The Ethics Commission, however, claims that "the Statement of Incompatible Activities explicitly states that members of the Board of Examiners are officers *solely* for the purpose of the Statement of Incompatible Activities. The Statement of Incompatible Activities does not define the term "officer" for section 3.224." (Ethics Comm. Buscovitch Advice Letter, April 13, 2009, at 4-5, emphasis added.) While we agree that the Statement of Incompatible Activities does not, by itself, definitively answer the question, we disagree with the Ethics Commission's characterization and analysis of this Statement. The Statement does not "explicitly state" that BOE Members are officers "solely" for purpose of the Statement. Nor does it in any way suggest that BOE Members are not "officers" for the other conflict-of-interest provisions. To the contrary, C&GC Code section 3.218, which requires the Statements of Incompatible Activities, **only applies to "officers and employees."** If BOE Members are not "officers or employees," then they are not subject to any Statement of Incompatible Activities, and presumably the Ethics Commission would not have authorized their inclusion in DBI's Statement. Additionally, the Statement of Incompatible Activities notes that BOE Members are

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subject to the Campaign and Governmental Conduct Code, but this would not be true if they are not "officers," as the Ethics Commission now claims.

As noted, in order to determine whether BOE Members are "officers" for purposes of Section 3.224—and thus included in the compensated advocacy ban—the statute must be harmonized with the Statement of Incompatible Activities and the other related conflict-of-interest laws described above. In sum, these laws demonstrate:

- San Franciscans have a "compelling interest in . . . laws regulating conflicts of interest" (C&GC Code § 3.200);
- "The proper operation of the government . . . requires that public officers and employees be independent, impartial, and responsible to the people and that public office and employment not be used for personal gain" (C&GC Code § 3.200);
- The C&GC Code seeks to ensure that "City officials" make their decisions in a manner that is fair and evenhanded for all of our City's residents (C&GC Code § 3.200);
- The C&GC Code is to be interpreted broadly (C&GC Code § 3.202);
- The C&GC Code incorporates the Political Reform Act and Government Code section 1090, which, in turn, apply to members of the BOE; (C&GC Code § 3.206);
- BOE Members are "officers" required to submit Statements of Economic Interests (C&GC Code §§ 3.1-102, 3.1-155); and
- BOE Members are "officers" for purposes of DBI's Statement of Incompatible Activities (DBI Statement of Incompatible Activities at 1).

Interpreting section 3.224 in this context compels the conclusion that section 3.224 applies to BOE Members. As it was put by the Ethics Commission in a prior letter, "[t]here is simply no indication that the voters intended to restrict the compensated advocacy ban Rather, the intent seems clear to be a bar against compensated advocacy . . . where it is clear that undue influence will or may play a role in the decision-making." (Fay Advice Letter at 2-3.)

The Administrative Code's Definition of "Officer" May Also Include Board of Examiner Members.

In its April 13, 2009 Advice Letter, the Ethics Commission relied on the definition of "officers" in San Francisco Administrative Code section 1.50 to reach a different conclusion.

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We think that the better analysis is to look for guidance to the conflict-of-interest provisions within the C&GC Code. But even if we rely on Administrative Code section 1.50, that section does not appear inconsistent with the conclusion that Board of Examiner Members are "officers" under the City's conflict-of-interest laws. Administrative Code section 1.50 states:

The officers of the City and County shall be the officers elected by vote of the people, members of the Board of Education, members of boards and commissions appointed by the Mayor and the Board of Supervisors, members of the Building Inspection Commission, members of the Ethics Commission, members of the Elections Commission, members of the Retirement Board, members of the Health Service Board, members of the Sunshine Ordinance Task Force, members of the Youth Commission, members of the Small Business Commission, members of the Board of Law Library Trustees, the Superintendent of Schools, the executive appointed as the chief executive officer under each board or commission, the Controller, the City Administrator, the head of each department under the Mayor, and such other officers as may hereafter be provided by law or so designated by ordinance. (Emphasis added.)

Although not listed by name in this section, BOE Members are labeled as "officers" in C&GC Code sections 3.1-102 and 3.1-155. They have similarly been defined as "officers" for the Statement of Incompatible Activities authorized by C&GC Code section 3.218. These are instances "provided by law," in which Board of Examiner Members have been declared to be "officers."

Excluding BOE Members From Section 3.224 Would Lead to Untenable Results.

In concluding that section 3.224 encompasses BOE Members, we are mindful of the California Supreme Court's admonition that "interpretations that lead to absurd results, . . . are to be avoided." (*Woods v Young*, 53 Cal.3d at 323.) If, as the Ethics Commission opined, BOE Members are not "officers" for purposes of section 3.224, then by the same logic, BOE Members are not "officers" for any of the other conflict-of-interest prohibitions in Chapter Two of the C&GC Code that bar City "officers" from self-dealing and other abuses of their position. The following untenable results would flow from accepting the Ethics Commission's opinion:

- BOE Members would not be subject to C&GC Code section 3.206 (a) and (b), which prohibit "officers and employees" from making decisions in which they have a financial interest or making contracts in which they have a financial interest;
- BOE Members would not be subject to C&GC Code section 3.206(c), which bars "officers and employees" from participating in government decisions involving a person with whom the "officer" is negotiating future employment;

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- BOE Members would not be subject to C&GC Code section 3.208, under which "no officer or employee" "may solicit or accept, any money or other valuable thing in consideration for" the person's nomination or appointment to any City office or employment;
- BOE Members would not be subject to C&GC Code section 3.210, which bars "officers and employees" from knowingly attempting to influence a governmental decision involving his or her own character or conduct;
- BOE Members would not be subject to C&GC Code section 3.212, which prohibits "officers and employees" from participating in making a City decision regarding an employment action involving a relative;
- BOE Members would not be subject to C&GC Code section 3.216's prohibition against bribery because that section states that "no officer or employee shall accept, any gift with the intent that the City officer or employee will be influenced thereby in the performance of any official act";
- BOE Members would not be subject to C&GC Code section 3.228's prohibition that "No current or former officer or employee of the City and County shall: (a) willfully or knowingly disclose any confidential or privileged information . . . or (b) use any confidential or privileged information to advance the financial or other private interest of himself or herself or others"; and
- BOE Members would not be subject to C&GC Code section 3.230's prohibition on political activity, because the section states that "no City officer or employee shall knowingly, directly or indirectly, solicit political contributions from other City officers or employees . . . or from persons on employment lists of the City."

In short, excluding BOE Members from section 3.224, would have the effect of immunizing these public officials from complying with even the most basic of San Francisco's good-government and conflict-of-interest laws, ranging from the City's prohibition against bribery, to its barring the use of City confidential information. Under this interpretation, a City public official could be guilty of a felony violation of Government Code section 1090, or a misdemeanor violation of the Political Reform Act, but not run afoul of the C&GC Code, even though the C&GC Code expressly incorporates these laws. That would be an absurd result, contrary to the express purpose of the Campaign and Governmental Conduct Code and California's conflict-of-interest provisions.

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The Ethics Commission's Prior Actions Support The Conclusion That BOE Members are "Officers" For Purposes of Section 3.224.

The Ethics Commission's analysis in three analogous situations—one involving Mr. Buscovitch—bolsters the position that BOE Members are officers for purposes of the compensated advocacy ban. In the fall of 2005, the Ethics Commission considered three requests for waivers of the compensated advocacy ban. (The waiver process is discussed below.) One requester was appointed to be a member of the Access Appeals Commission ("AAC"), and two others, including Buscovitch, were appointed to the Unreinforced Masonry Building Appeals Board ("UMBAB.") Like the members of the Board of Examiners, the members of both AAC and the UMBAB are appointed by the Building Inspection Commission, and the powers and responsibilities of all three boards are codified in Section 105A of the San Francisco Building Code. In 2005, Ethics Commission staff concluded that members of the AAC and UMBAB were "officers" subject to the compensated advocacy ban.

In a September 7, 2005 Memorandum to the Ethics Commission from its Executive Director, the Ethics Commission staff provided the following analysis supporting its conclusion that members of the Access Appeals Commission are "officers" subject to Section 3.224:

For purposes of this waiver request, staff concludes that a member of the AAC is an officer of the City and County of San Francisco. Administrative Code section 1.50, which defines "officer," includes "members of boards and commissions appointed by the Mayor and the Board of Supervisors," does not mention members appointed by the Building Inspection Commission. However, **members of the AAC are included in the conflict of interest code and are required to file statements of economic interest . . . ; thus, they are persons who have been recognized as decision makers in the City.** In addition, **member of the AAC are eligible to receive health benefits from the City, and only officers are eligible to receive such benefits under the Charter.** Finally, under legislation approved by the Commission pending at the Board of Supervisors, **members of bodies who are required to file SEIs will be subject to the City's conflict of interest laws.** (See Sept. 7, 2005 Ethic Comm. Staff Report re: AAC at 2 fn.1. Internal citations omitted and emphasis added.)

This 2005 analysis appears in sync with the general conflict-of-interest jurisprudence and the rules of statutory construction. The Ethics Commission staff explained that even though the AAC Members were not mentioned by name in the Administrative Code, the inclusion of the AAC Members in the relevant conflict-of-interest code, the AAC Members being "recognized as decision makers in the City," and the AAC Members ability to obtain City health care—as only officers can, showed the intention that they be included in the compensated advocacy ban. The staff also pointed to the then-pending legislation that would have explicitly declared that SEI filers are subject to the City's good government laws.

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Consistent with its position concerning the AAC, the Ethics Commission staff also concluded in 2005 that members of the Unreinforced Masonry Building Appeals Board were "officers" subject to section 3.224's compensated advocacy ban. In their September 7, 2005 memorandum responding to a waiver request by Mr. Buscovitch that would allow him to be a member of the UMBAB and continue to represent his clients before City agencies, the Ethics Commission staff cited some of the broad language in the Administrative Code and the inclusion of the UMBAB in the City's conflict-of-interests code:

For purposes of this waiver request, staff concludes that a member of the UMBAB is an officer of the City and County of San Francisco. Administrative Code section 1.50, which defines "officer," includes "members of boards and commissions appointed by the Mayor and the Board of Supervisors," and "such officers as may hereafter be provided by law or so designated by ordinance." Section 1.50 does not mention members appointed by the Building Inspection Commission. Arguably, the ordinance creating the UMBAB designates them as officers; but even if it does not, members of the UMBAB are included in the conflict of interest code and are required to file statements of economic interests Thus, they are persons who have been recognized as decision makers in the City. In addition, under legislation approved by the Commission and pending at the Board of Supervisors, members of bodies who are required to file SEIs will be subject to the City's conflict of interest laws. (See Sept. 7, 2005 Ethic Comm. Staff Report re: UMBAB at 2 fn.1. Internal citations omitted and emphasis added.)

The Ethics Commission references this prior analysis in its current opinion, mentioning that its current conclusion that BOE Members are not "officers" "may contradict a footnote in the Commission staff's memorandum regarding [Mr. Buscovitch's] 2005 waiver request." The current opinion states that this contradiction was based "partly due to [an] imminent possibility" in 2005 that the City would enact legislation that would have applied all of the City's conflict-of-interest laws to all those required to file Statements of Economic Interests. The current Ethics opinion then states that the prior failed legislation should not be determinative, and that "[b]ased on the current law and plain language of the Administrative Code section 1.50, we conclude that the compensated advocacy ban does not apply to member of the Board of Examiners."

But in our reading of the 2005 Buscovitch staff report, the then-pending potential legislation was just one aspect of the staff's analysis. The staff discussed the possible legislation only after discussing other compelling factors. "In addition" is how the staff phrased the import of the legislation being considered. We do not see any indication that the conclusions about the UMBAB or the AAC rested solely—or primarily—on possible future legislation.

In November 2005, the Ethics Commission staff again revisited the status of UMBAB Members in the context of section 3.224's compensated advocacy ban. Again, the staff

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concluded that UMBAB Members were officers, but this time the staff did not mention any pending legislation:

For purposes of this waiver request, staff concludes that a member of the UMBAB is an officer of the City and County of San Francisco. Administrative Code section 1.50, which defines "officer," includes "members of boards and commissions appointed by the Mayor and the Board of Supervisors," and "such officers as may hereafter be provided by law or so designated by ordinance." Section 1.50 does not mention members appointed by the Building Inspection Commission. Arguably, the ordinance creating the UMBAB designates them as officers; but even if it does not, members of the AAC are included in the conflict of interest code and are required to file statements of economic interests Thus, they are persons who have been recognized as decision makers in the City. Finally, the Commission recently granted a waiver from the Compensated Advocacy Ordinance to another member of the UMBAB, which would not have been necessary if members of the UMBAB are not officers. For these reasons, staff recommends that the Commission consider members of the UMBAB officers for the purposes of the Compensated Advocacy Ordinance. (See Nov. 9, 2005 Ethic Comm. Staff Report re: UMBAB at 2 fn.1. Internal citations omitted and emphasis added.)

These staff reports reveal that the question posed now has already been answered three times over. The BOE appears similarly situated to the AAC and the UMBAB in all relevant respects: the San Francisco Building Code defines the roles and responsibilities of all three boards; the Building Inspection Commission chooses the members of all three boards; the members of all three boards are "decision makers of the City;" and members of all three boards are included in the conflict-of-interest codes that require them to file Statements of Economic Interests. And BOE Members, like AAC and UMBAB Members, should be considered officers for purposes of section 3.224.

The Ethics Commission May Still Consider Section 3.224's Waiver Provisions.

The three 2005 Ethics Commission staff reports all arose in the context of requested waivers of the compensated advocacy ban. The current matter also arose in that context. Mr. Buscovitch requested a waiver under section 3.224, not exclusion from its reach:

I am [sic] practicing structural engineer in San Francisco and a city resident (native), I have been appointed to the Structural Engineer's seat on the Board of Examiners, Department of Building Inspection. I am requesting an ethic's [sic] waiver. (Buscovitch Waiver Request, March 19, 2009.)

C&GC Code section 3.224(e) permits the Ethics Commission to waive the compensated advocacy ban under certain circumstances:

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Waiver. The Ethics Commission may waive the prohibitions in this Section for any member of a City board or commission who, by law, must be appointed to represent any profession, trade, business, union or association.

Building Code Section 105A.1.4 specifies that the Board of Examiners must consist of members from various professions and trades including that one member must be "a registered structural engineer." It appears, therefore, that BOE members may seek a waiver under section 3.224(c).

It may at first appear confounding that the C&GC code would allow for a waiver of one of the public integrity laws aimed at preventing public officials from allowing their private interests to influence their public duties. But the Ethics Commission, through its regulations, has enacted a process that allows for transparency and a thorough, public debate about the pros and cons of each waiver request:

Process for Granting Waivers. All waivers granted pursuant to subsection 3.224(c) must be made at a public meeting. Requests for waivers made by a City officer or by the officer's appointing authority must be in writing and state the reasons why the waiver should be granted. The Ethics Commission shall consider, at its next regularly scheduled meeting, any waiver request that meets the criteria of this regulation provided that such request is received at least two calendar weeks in advance of the meeting. In making a determination to grant a waiver under this subsection the Commission may consider: the ability of the City to recruit qualified individuals to fill the position in question if the waiver is not granted; the ability of the member to engage in his or her particular vocation if the waiver is not granted; and any other factors the Commission deems relevant. (Ethics Regs § 3.224-2(b).)

The Ethics Commission staff summed up the interplay between a waiver request and the goal of the compensated advocacy ban:

The compensated advocacy ban works to ensure that members of boards and commissions do not use their position to influence government decisions on behalf of clients. Competing against this interest is the need for the City to recruit qualified individuals to fill seats on boards and commissions. (Nov. 9, 2005 Ethics Comm. Staff Report re: UMBAB at 3.)

The Ethics Commission's 2005 consideration of Mr. Buscovitch's waiver request showcased the waiver consideration process. Buscovitch sought the section 3.224 (c) waiver to enable him to serve on the UMBAB while still representing his private clients before City agencies. (See Ethics Comm. Minutes, Sept. 12, 2005.) In this public meeting, the Commissioners appeared to grapple with the tension of preventing conflicts of interest while

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attracting qualified board members. Commissioners probed the nature of Mr. Buscovitch's work, his background, his expertise, and his representation of private clients before the Department of Building Inspection and other City boards. They also delved into the duties of the UMBAB. And Commissioners discussed the possibility placing additional conditions on a waiver. Members of the public also weighed in. The Commission ultimately agreed to grant the waiver.

Approximately three and a half years after the Ethics Commission granted him a waiver of the compensated advocacy ban for purposes of serving on the UMBAB, Mr. Buscovitch has requested a section 3.224 waiver to allow him to serve on the BOE while continuing to represent his private clients before City boards and commissions. The District Attorney's Office does not take a position on whether or not the Ethics Commission should grant Mr. Buscovitch's current request. That decision would rest with the Ethics Commission after conducting a hearing in compliance with its regulations—a public dialogue in which the need for public officials with undivided loyalty is weighed against the need for Mr. Buscovitch's particular expertise on the BOE.

We also do not opine here as to whether certain activities that would be covered by a waiver under section 3.224 (b) would nonetheless run afoul of other ethics laws. We note, however, as did the Ethics Commission in its April 13, 2009 opinion, that other ethics laws, such as the Political Reform Act, may limit the ability of a members of the BOE to act on behalf of their private clients.

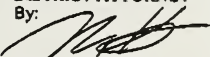
Conclusion

The District Attorney's Office does not concur with the Ethics Commission's opinion that members of the Board of Examiners are not "officers" subject to C&GC Code section 3.224's compensated advocacy ban. The District Attorney's Office believes that the applicable law proves that BOE Members are covered by this section and are barred from compensated advocacy. Because of the importance of this issue, and the damaging precedent that would be set by the Ethics Commission's April 13, 2009 letter, we also ask the Ethics Commission to reconsider its advice.

Very truly yours,

KAMALA D. HARRIS
DISTRICT ATTORNEY

By:



Marc D. Katz
Assistant District Attorney



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JOHN ST. CROIX
EXECUTIVE DIRECTOR

April 13, 2009

Patrick Buscovich
Patrick Buscovich & Associates
235 Montgomery Street, Suite 823
San Francisco, CA 94104-2906

Re: Request for Advice Regarding Application of Compensated Advocacy Ban to
Members of San Francisco Board of Examiners

Dear Mr. Buscovich:

You requested advice regarding San Francisco Campaign and Governmental Conduct Code ("C&GC Code") section 3.224, which prohibits officers of the City and County of San Francisco (the "City"), from communicating with other City officers and employees on behalf of other persons for compensation with the intent to influence governmental decisions. In other words, section 3.224 prohibits City officers from being paid to lobby.

The Ethics Commission provides two kinds of advice: written formal opinions and informal advice. *See* S.F. Charter § C3.699-12. Written formal opinions are available to individuals who request advice about their responsibilities under local laws. Formal opinions provide the requester immunity from subsequent enforcement action if the material facts are as stated in the request for advice, and if the District Attorney and City Attorney concur in the advice. Informal advice does not provide similar protection. *See id.* In providing either type of advice, the Ethics Commission does not act as a finder of fact. The Commission's advice to you is based on the facts presented by you, as reflected in this letter. The advice in this letter may provide immunity, but only to the extent that the material facts related to a future enforcement are presented here. *See id.*

Because you seek advice regarding specific actions that you may take in the future, the Commission is treating your question as a request for a formal opinion.

Question

You asked the Ethics Commission to consider the following question:

Does section 3.224 of the C&GC Code prohibit you, as a member of the Board of Examiners, from communicating on behalf of other persons with officers or employees of the City with the intent to influence governmental decisions?

Summary of Advice

The compensated advocacy ban in C&GC Code section 3.224 applies only to City officers. Because members of the Board of Examiners are not "officers," as that term is defined in the San Francisco Administrative Code, you are not subject to the compensated advocacy ban.

Background

You are a licensed structural engineer working for Patrick Buscovich & Associates, a structural engineering firm in San Francisco. In that capacity, you design projects and interpret building codes for your clients, and regularly contact the Department of Building Inspection, the Planning Department and other City agencies on behalf of your clients. In those contacts, you may attempt to influence City decisions to benefit your clients.

You are a member of the Board of Examiners. The Board of Examiners is a group of experts created under Section 105A.1 of the San Francisco Building Code. The Building Code sets forth the responsibilities of the Board of Examiners, including: determining whether new materials, new methods and types of construction comply with established safety standards; approving certain variances from the Building Code's requirements; recommending interpretations of the Building Code; and hearing appeals from any Abatement Orders involving construction methods, assemblies or materials, and other safety issues. See S.F. Building Code § 105A.1.1.1.

The Building Inspection Commission appoints, and may remove at its discretion, all members of the Board of Examiners. See S.F. Charter § D3.750-4. One seat on the Board of Examiners must be filled by a registered structural engineer. See S.F. Building Code § 105A.1.4. You have indicated that there are approximately forty registered structural engineers residing in the City. The Building Inspection Commission has appointed you to fill that seat.

In 2005, the Building Inspection Commission appointed you to a separate City body, the Unreinforced Masonry Building Appeals Board ("UMBAB"). At that time, you requested that the Commission grant a waiver to allow you to engage in compensated advocacy. At its meeting in September 2005, the Commission granted your waiver request. You are no longer a member of the UMBAB.

Discussion

A. The Compensated Advocacy Ban

Section 3.224 of the C&GC Code¹ prohibits any officer of the City from directly or indirectly receiving any compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City with the intent to influence a government decision. *See* C&GC Code § 3.224(a). The section does not apply to certain communications, such as routine requests for information or communications by an officer on behalf of a business, union, or organization of which the officer is a member or full-time employee, but you have provided no facts indicating that any of the enumerated exceptions applies to you. *See* C&GC Code § 3.224(b); EC Reg. 3.224-1.² San Francisco voters enacted the compensated advocacy ban as part of Proposition F on June 3, 1986, and the voters later approved additional amendments to the ban as Proposition E on November 3, 2003.

The Proposition F ballot materials state that the compensated advocacy ban sought “to eliminate undue influence by officeholders retained as paid lobbyists for projects requiring City approval.” *See* June 3, 1986 San Francisco City and County Propositions, Argument in Favor of Prop. F, at 52. In an advice letter analyzing an earlier version of section 3.224, the Ethics Commission concluded “that the Ordinance was designed specifically to address the possibility of undue influence and/or conflicts of interests that arise from a City officer’s representation of a private interest before any agency operating exclusively within the City and County of San Francisco.” *See* S.F. Ethics Commission Formal Adv. Letter to William W. Fay, D.D.S., May 15, 2001, available at http://www.sfgov.org/site/ethics_page.asp?id=14054 (“Fay Advice Letter”).

¹ Section 3.224 states, “PROHIBITION ON REPRESENTING PRIVATE PARTIES BEFORE OTHER CITY OFFICERS AND EMPLOYEES—COMPENSATED ADVOCACY.

(a) **Prohibition.** No officer of the City and County shall directly or indirectly receive any form of compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City and County with the intent to influence a government decision.

(b) **Exceptions.** This Section shall not apply to any communication by: (1) an officer of the City and County on behalf of the City and County; (2) an officer of the City and County on behalf of a business, union, or organization of which the officer is a member or full-time employee; (3) an associate, partner or employee of an officer of the City and County, unless it is clear from the totality of the circumstances that the associate, partner or employee is merely acting as an agent of the City and County officer; or (4) a City officer acting in his or her capacity as a licensed attorney representing clients in communications with the City Attorney’s Office, outside legal counsel hired by the City, or representatives of the City who are named in a pending litigation matter.

(c) **Waiver.** The Ethics Commission may waive the prohibitions in this Section for any member of a City board or commission who, by law, must be appointed to represent any profession, trade, business, union or association.

² The Ethics Commission may waive the prohibitions in section 3.224 for any member of a City board or commission who by law must be appointed to represent any profession, trade, business, union, or association. *See* C&GC Code § 3.224(c). In your initial letter to the Commission on March 19, 2009, you requested that the Commission waive the prohibition as applied to you because you would occupy a seat on the Board of Examiners designated for a structural engineer. Because this letter concludes that section 3.224 does not apply to you, there is no need for the Commission to consider your waiver request.

B. Application of the Compensated Advocacy Ban to City “Officers”

By its terms, section 3.224 applies only to “officer[s] of the City and County of San Francisco.” See C&GC Code § 3.224(a). Neither the ordinance itself nor the Commission’s regulations define the term “officer.” But the City’s Administrative Code does define the term:

The officers of the City and County shall be the officers elected by vote of the people, members of the Board of Education, members of boards and commissions appointed by the Mayor and the Board of Supervisors, members of the Building Inspection Commission, members of the Ethics Commission, members of the Elections Commission, members of the Retirement Board, members of the Health Service Board, members of the Sunshine Ordinance Task Force, members of the Youth Commission, members of the Small Business Commission, members of the Board of Law Library Trustees, the Superintendent of Schools, the executive appointed as the chief executive officer under each board or commission, the Controller, the City Administrator, the head of each department under the Mayor, and such other officers as may hereafter be provided by law or so designated by ordinance.

S.F. Admin. Code § 1.50.

Notably, Proposition E amended both this section of the Administrative Code and the compensated advocacy ban. In other words, that measure approved both section 3.224’s restriction on compensated advocacy by “officers” and section 1.50’s definition of the term “officers.” Based on that legislative history, the Commission concludes that section 1.50 defines the term “officer” for section 3.224.

Before Proposition E’s enactment, the Ethics Commission in the Fay Advice Letter reasoned that because the compensated advocacy ordinance applied to “officers” but the ordinance itself did not define the term, the definition in the 2001 version of Administrative Code section 1.50 applied. See Fay Adv. Letter, May 15, 2001. We reach the analogous conclusion here.

Members of the Board of Examiners are not City officers, as that term is defined under section 1.50. Neither the Board of Supervisors nor the Mayor appoints members of the Board of Examiners. Rather, the Building Inspection Commission appoints, and may remove at its discretion, any member of the Board of Examiners. See S.F. Charter § D3.750-4. And while section 1.50 specifically enumerates specific other commissioners and board members, such as Ethics Commissioners and Retirement Board members, as “officers,” that section does not mention the Board of Examiners. Accordingly, based on the plain language of the ordinance, we conclude that members of the Board of Examiners are not City officers.

We note that this conclusion may, at first, appear inconsistent with two prior Ethics Commission actions and decisions. First, the Building Inspection Commission’s Statement of Incompatible Activities refers to members of the Board of Examiners as “officers.” But the Statement of Incompatible Activities explicitly states that members of the Board of Examiners are officers

solely for the purpose of the Statement of Incompatible Activities. The Statement of Incompatible Activities does not define the term "officer" for section 3.224.

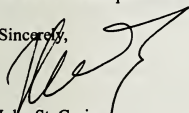
Second, this conclusion may contradict a footnote in the Commission staff's memorandum regarding your 2005 waiver request. In that footnote, the staff explained that "[f]or the purposes of this waiver request, staff concludes that a member of the UMBAB is an officer of the City. . . ." At that time, the City was considering legislation that would have applied all of the City's conflict of interest laws to all employees and officers required to file Statements of Economic Interests. Partly due to that imminent possibility, the Ethics Commission assumed that you were an officer for purposes of the compensated advocacy ban with respect to your prior waiver request. That legislation ultimately did not pass, and it should not determine the analysis here. Based on the current law and the plain language of Administrative Code section 1.50, we conclude that the compensated advocacy ban does not apply to members of the Board of Examiners.

Conclusion

For the reasons discussed above, the Commission finds that section 3.224 does not prohibit you from communicating with City employees and officers on behalf of your clients with the intent to influence governmental decisions.

Other ethics laws, such as the Political Reform Act, Cal. Gov't Code §§ 81000, et seq., or the Building Inspection Commission's Statement of Incompatible Activities, may otherwise limit your ability to act on behalf of your clients.³ If you would like to discuss those laws, or if you have additional questions on this matter, please contact me at (415) 252-3100.

Sincerely,



John St. Croix
Executive Director

S:\ADVICE\conflicts of interest\Compensated Advocacy\09-0319 Buscovich\letter to Buscovich 4.13.09.doc

³ The Statement of Incompatible Activities that governs the Board of Examiners requires a member of the Board of Examiners to "disclose all permit applications and other matters pertaining to their official business before the DBI [Department of Building Inspection] to the Ethics Commission within fifteen calendar days of the end of each quarter." Each member must also disclose to the Ethics Commission all permit applications and other matters pertaining to their official business before the DBI submitted by secondary parties such as the member's clients, Limited Liability Companies, Partnerships, Limited Partnerships, Corporations or any other entity in which the member has an ownership or controlling interest of at least 10 percent or from which the member has received income exceeding \$500 in the past 12 months. See Department of Building Inspection and Building Inspection Commission Statement of Incompatible Activities, § III.A.1.g.

Patrick Buscovich & Associates Structural Engineers, Inc.

MONTGOMERY STREET, SUITE 823, SAN FRANCISCO, CALIFORNIA 94104-2908 • TEL: (415) 788-2708 FAX: (415) 788-8883

WWW.BUSCOVICH.COM

March 19, 2009

Ethics Commission
25 Taylor Street, Suite 220
San Francisco, CA 94102

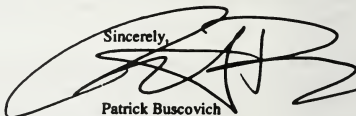
Attn: John St. Crox

Re: Waiver

Dear Sir,

I am practicing structural engineer in San Francisco and a city resident (native), I have been appointed to the Structural Engineer's seat on the Board of Examiner, Department of Building Inspection. I am requesting an ethic's waiver.

Sincerely,



Patrick Buscovich
Structural Engineer

2009 MAR 23 11:15 AM

March 19, 2009

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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

DIENNE S. STUDLEY
CHAIRPERSON

USAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: July 8, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

By: Mabel Ng, Deputy Executive Director

Re: Legislation to clarify application of conflict of interest provisions under Chapter 2, Article III of San Francisco Campaign and Governmental Conduct Code

At its April 13, 2009 meeting, the Commission approved a formal advice letter to Patrick Buscovich, a structural engineer who had been appointed to the Board of Examiners. The Commission advised that Mr. Buscovich was not subject to the compensated advocacy ban in Campaign and Governmental Conduct Code section 3.224 because members of the Board of Examiners are not "officers" of the City, as defined in local law. In a letter dated June 12, 2009, the District Attorney declined to concur in the Commission's advice. Although staff disagrees with the legal analysis and conclusions in that letter, staff agrees with the District Attorney's policy concern that appointed members of local decision-making should comply with the City's conflict of interest laws.

For that reason, staff proposes that the Commission approve amendments to the conflict of interest provisions that appear in Chapter 2, Article III of the San Francisco Campaign and Governmental Conduct Code. The proposed amendments would define "officer" for the purposes of Chapter 2, apply the conflict of interest laws in that Chapter to "officers," make several modifications to the City's contracting ban for members of boards and commissions, and rename Chapter 2 as the Government Ethics Ordinance ("GEO").

Section 3.201 (page 4 of draft amendments)

The amendment adds new section 3.201 to provide a title for Chapter 2 of Article III of the San Francisco Campaign and Government Conduct Code, which will be the "Government Ethics Ordinance," or "GEO." Because Chapter 2 sets forth most of the conflict of interest rules that govern City officers and employees, staff believes that giving it an easier name to remember would be appropriate.

Section 3.203 (page 4 of draft amendments)

The amendment adds new section 3.203 to define “officer” and “City elective office” for the purposes of Chapter 2. “Officer” would mean any person holding City elective office, any member of a board or commission who is required to file a Statement of Economic Interests (“SEI” or Form 700), any person appointed as the chief executive officer of a board or commission, a department head, the Controller, and the City Administrator. An “officer” would not include a member of a separate non-City legal entity such as the Board of Education and the Superintendent of Schools, who are currently not subject to the City’s conflict of interest laws. Under this new definition, members of the Board of Examiners would be City officers subject to local conflict of interest laws.

“City elective officer” means an incumbent in the offices of the Mayor, the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor and Public Defender. It does not include a member of the Board of Education of the San Francisco Unified School District or a member of the Governing Board of the San Francisco Community College District. Candidates for such offices are subject to local campaign finance rules and must file their campaign disclosure statements with the Ethics Commission, but incumbents in those offices are not subject to the conflict of interest laws in Chapter 2.

Section 3.222 (pages 1-3 of draft amendments)

Under current law, members of appointed boards or commissions are barred from entering contracts or subcontracts with the City, the San Francisco Redevelopment Agency, Housing Authority, Unified School District, or Community College District where the amount of the contract or subcontract exceeds \$10,000. The proposed legislation would change section 3.222 in four ways:

First, the legislation would apply section 3.222 to “City officers” instead of members of appointed boards or commissions. Currently, some officers – such as department heads – are not subject to section 3.222. Current law also specifically exempts members of advisory boards or commissions from the contracting ban. In the past, for example, the Ethics Commission advised that a member of the Landmarks Preservation Advisory Board¹ was not subject to the contracting ban, even though members of that board were decision-making public officials required to file SEIs. *See* Kelley Advice Letter, July 12, 2001.

Amending section 3.222 to apply to officers (defined under new section 3.203 to include members of boards or commissions who are required to file SEIs) would simplify the law and ensure that all appointed decision-makers are subject to the same ethical restrictions. The change also would ensure that the various restrictions in Chapter 2 apply consistently. Currently, some restrictions, such as the compensated advocacy ban in section 3.224, apply to City “officers,” while the contracting ban in section 3.222 applies to “members of boards and commissions” – an overlapping but separate group of City officials. This amendment would apply section 3.222 to “officers” as well.

¹ The Landmarks Preservation Advisory Board has dissolved and has been replaced by the Historic Preservation Commission, whose members are required to file SEIs.

Second, the legislation would authorize the Commission to waive the contracting ban for any officer who by law must be appointed to represent a profession, trade, business, union or association. This addition duplicates the waiver provision in section 3.224(c), which authorizes the Commission to consider a waiver from the compensated advocacy ban for the same category of board or commission members. Staff believes a waiver provision is appropriate to allow certain officers to contract with the City in extraordinary situations, based on case-specific findings by the Commission.

Third, the legislation would clarify that section 3.222 prohibits officers not only from entering contracts with the City and other local entities, but also from bidding on, negotiating for, or otherwise attempting to enter such contracts. Currently, the ordinance prohibits “contracting” with the City and other local agencies, but it does not explicitly prohibit officers from bidding on City contracts. So technically, a board or commission member could submit a bid and negotiate for a contract, and section 3.222 would not apply until the member actually enters the final contract. Staff believes this is an unintended loophole in the law. The purpose of section 3.222 is to ensure that contracts are, and appear to be, awarded on a fair and impartial basis. By prohibiting officers from contracting with the City, the ordinance eliminates “both actual and perceived favoritism or preferential treatment without creating unnecessary barriers to public service.” C&GC Code § 3.200(a)(1) and (3). To achieve this goal, section 3.222 should apply throughout the contracting process, not just at the moment the contract becomes final.

Fourth, the legislation would add an exception to allow officers to enter settlement agreements with the City and other local agencies regarding claims or other legal disputes. If an officer is engaged in litigation or any other legal dispute with the City or another local agency, local law should not prohibit the officer from settling that dispute. For that reason, staff recommends adding this exception to section 3.222.

Section 3.224 (pages 3-4)

Staff recommends that the Commission change the term “member of a City board or commission” to “officer,” in the waiver section of the compensated advocacy ban, section 3.224(c). This change will make section 3.224 consistent with the rest of the Chapter.

LEGISLATIVE DIGEST

[Application of City's conflict of interest laws to City officers.]

Ordinance amending the San Francisco Campaign and Governmental Conduct Code by amending sections 3.222 and 3.224 to clarify the application of prohibitions to City officers and to permit the Ethics Commission to waive the prohibition on officers contracting with the City, and by adding sections 3.201 and 3.203 to name the Government Ethics Ordinance and to define "officer."

Existing Law

Chapter Two of Article III of the City's Campaign and Governmental Conduct Code regulates conflicts of interest and other prohibited activities. Many of the rules set out in the Chapter apply explicitly to officers and employees. These include section 3.208 (prohibiting consideration for City appointments or nominations), section 3.210 (prohibiting voting on own character or conduct), section 3.212 (prohibiting decisions involving family members' employment), section 3.214 (requiring disclosure of personal, professional or business relationships), section 3.216 (gift restrictions), section 3.218 (incompatible activities), section 3.224 (prohibiting compensated advocacy), section 3.226 (prohibiting consideration for referrals), section 3.228 (prohibiting disclosure of confidential information), section 3.230 (prohibition on political activity with City resources), and section 3.234 (post-employment restrictions). Section 3.222 of the Chapter, which prohibits contracting with the City and other local entities, does not apply specifically to "officers." Instead, that section applies to members of City boards and commissions, excluding members of advisory bodies.

Some members of City boards and commissions who file Statements of Economic Interests under the City's Conflict of Interest Code are not "officers," as that term is defined in City law. The term "officer" is defined in Administrative Code section 1.50 to mean: elected City officeholders; members of the Board of Education; members of boards and commissions appointed by the Mayor and the Board of Supervisors; members of the Building Inspection Commission, Ethics Commission, Elections Commission, Retirement Board, Health Service Board, Sunshine Ordinance Task Force, Youth Commission, Small Business Commission and Board of Law Library Trustees; the Superintendent of Schools; the executive appointed as the chief executive officer under each board or commission; the Controller; the City Administrator; the head of each department under the Mayor; and any other person so designated by law.

Chapter Two of Article III does not have a title for citation, unlike Chapter One of Article III (the Conflict of Interest Code) or Chapter One of Article I (the Campaign Finance Reform Ordinance).

Amendments to Current Law

This legislation would define "officer" for the purpose of the Chapter to mean any person holding City elective office; any member of a board or commission required to file statement of economic interests; any person appointed as the chief executive officer under a board or commission; the head of each City department; the Controller; and the City Administrator.

The legislation also would amend section 3.222, the contracting prohibition, so it would apply to all officers rather than only members of boards and commissions. The legislation also would add an exception to allow officers to enter settlement agreements regarding claims or other legal disputes, and would allow the Ethics Commission to waive the contracting prohibition for any member of a City board or commission who, by law, must be appointed to represent any profession, trade, business, union or association. The legislation also would clarify that section 3.222 prohibits officers not only from entering contracts with the City and other local entities, but also from bidding on, negotiating for, or otherwise attempting to enter such contracts.

The legislation would amend section 3.234, the compensated advocacy ban, which currently allows the Ethics Commission to grant waivers to board or commission members, to allow such waivers for "officers" instead.

The legislation also would rename the Chapter as the Government Ethics Ordinance.

Background Information

The proposal amends Article III, Chapter Two of the Campaign and Governmental Conduct Code, which was originally approved by the voters. Section 3.204 of the Campaign and Governmental Conduct code expressly authorizes amendment of Article III, Chapter Two on if:

- 1) the amendment furthers the purposes of the Chapter;
- 2) the amendment is submitted to the Ethics Commission and recommended by its members by a four-fifths vote;
- 3) the legislation is made available for public review for 30 days; and
- 4) the Board of Supervisors adopts the legislation by a two-thirds vote.

[Application of City's conflict of interest laws to City officers.]

Ordinance amending the San Francisco Campaign and Governmental Conduct Code by amending sections 3.222 and 3.224 to clarify the application of prohibitions to City officers, and by adding sections 3.201 and 3.203 to name the Government Ethics Ordinance, to permit waiver of contracting prohibition, and to define "officer."

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby amended by amending Sections 3.222 and 3.224, to read as follows:

SEC. 3.222. PROHIBITING ~~MEMBERS OF BOARDS AND COMMISSIONS~~ OFFICERS FROM CONTRACTING WITH THE CITY AND COUNTY.

(a) Definitions. For purposes of this Section, the following definitions shall apply:

~~(1) Board or Commission. The term "board or commission" means an appointed board or commission created by Charter or ordinance of the City and County, but does not include advisory boards or commissions.~~

~~(12)~~ Business. The term "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, or other legal entity or undertaking organized for economic gain.

~~(23)~~ City and County. The term "City and County" includes any commission, board, department, agency, committee, or other organizational unit of the City and County of San Francisco.

1 (34) Contract. The term "contract" means any agreement ~~to which the City and County is~~
2 ~~a party~~, other than a grant ~~funded in whole or in part by the City and County~~ or an agreement for
3 employment ~~with the City and County~~ in exchange for salary and benefits.

4 (45) Subcontract. The term "subcontract" means a contract to perform any work that a
5 primary contractor has an agreement with the City and County, the San Francisco
6 Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School
7 District, or the San Francisco Community College District to perform.

8 (b) Prohibition. ~~No member of a board or commission of the City and County shall, d~~ During
9 his or her term of office, no officer shall enter, submit a bid for, negotiate for, or otherwise attempt
10 to enter, any contract or subcontract with the City and County, the San Francisco
11 Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified
12 School District, or the San Francisco Community College District, where the amount of the
13 contract or the subcontract exceeds \$10,000.

14 (c) Exceptions. This Section shall not apply to the following contracts or subcontracts:

15 (1) A contract or subcontract with a nonprofit organization;

16 (2) A contract or subcontract with a business with which an officer a member of a board
17 or commission is affiliated unless the officer member exercises management and control over
18 the business. A member exercises management and control if he or she is:

19 (A) An officer or director of a corporation;

20 (B) A majority shareholder of a closely held corporation;

21 (C) A shareholder with more than five percent beneficial interest in a publicly traded
22 corporation;

23 (D) A general partner or limited partner with more than 20 percent beneficial interest
24 in the partnership; or
25

(E) A general partner regardless of percentage of beneficial interest and who occupies a position of, or exercises management or control of the business;

(3) A contract or subcontract ~~with the City and County~~ entered into before a member of a board or commission commenced his or her service; ~~or~~

(4) An agreement to provide property, goods or services to the City and County at substantially below fair market value; or

(5) A settlement agreement resolving a claim or other legal dispute.

(d) Waiver. The Ethics Commission may waive the prohibitions in this section for any officer who, by law, must be appointed to represent any profession, trade, business, union or association.

(de) Limitation. Failure of a member of a board or commission an officer to comply with this Section shall not be grounds for invalidating any contract with the City and County.

SEC. 3.224. PROHIBITION ON REPRESENTING PRIVATE PARTIES BEFORE OTHER CITY OFFICERS AND EMPLOYEES– COMPENSATED ADVOCACY.

(a) Prohibition. No officer of the City and County shall directly or indirectly receive any form of compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City and County with the intent to influence a government decision.

(b) Exceptions. This section shall not apply to any communication by: (1) an officer of the City and County on behalf of the City and County; (2) an officer of the City and County on behalf of a business, union, or organization of which the officer is a member or full-time employee; (3) an associate, partner or employee of an officer of the City and County, unless it is clear from the totality of the circumstances that the associate, partner or employee is merely acting as an agent of the City and County officer; or (4) a City officer in his or her capacity as a licensed attorney engaged in the practice of law, which includes representing clients in communications with the City Attorney's Office, District Attorney's Office, Public Defender's

Office, attorneys in the Tax Collector's Office or Sheriff's Office, outside legal counsel hired by the City, representatives of the City who are named in a pending litigation matter or witnesses or potential witnesses in a pending litigation matter.

(c) Waiver. The Ethics Commission may waive the prohibitions in this section for any ~~member of a City board or commission officer~~ who, by law, must be appointed to represent any profession, trade, business, union or association.

Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby amended by adding Sections 3.201 and 3.203, to read as follows:

SEC. 3.201. CITATION

This Chapter may be cited as the San Francisco Government Ethics Ordinance.

SEC. 3.203. DEFINITIONS.

Whenever in this Chapter the following words or phrases are used, they shall mean:

(a) "Officer" shall mean any person holding City elective office; any member of a board or commission required by Article III, Chapter 1 of this Code to file statements of economic interests; any person appointed as the chief executive officer under any such board or commission; the head of each City department; the Controller; and the City Administrator.

(b) "City elective office" shall mean the offices of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor and Public Defender.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____

JON GIVNER
Deputy City Attorney



ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

JENNIFER S. STUDLEY
CHAIRPERSON

SAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: July 7, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

Re: Legislation regarding the solicitation of donations to friends' groups

Supervisor Daly has introduced legislation to amend the Campaign and Governmental Conduct Code to bar City officers and employees from soliciting donations to nonprofit organizations that fund City departments from persons who have business with those departments.

As explained in the attached legislative digest, current law does not bar City officers and employees from soliciting contributions to nonprofit organizations. However, the template for the Statements of Incompatible Activities (SIAs) provides that no officer or employee may use City business cards, titles, email, or other City resources in a way that may lead the solicited parties to believe that the officer or employee is acting in an official capacity when they are not. In addition, the SIAs of some departments bar officers or employees from serving on the boards of nonprofit organizations that seek grants from those departments.

The legislation would bar a City officer or employee from soliciting or requesting a gift or donation from any person to a nonprofit group if the officer or employee:

- (a) knows or has reason to know that the nonprofit group would use a portion of the gift or donation to fund the activities of a City department;
- (b) knows or has reason that the person solicited has business with the department, has had business with the department in the past 12 months, or will be seeking to have business with the department in the next 12 months;¹
- (c) works for, has oversight over, makes decisions regarding, or regularly has professional contact with the department that the gift or donation will support; and
- (d) is required to file a Statement of Economic Interests (SEI).

¹ A person "has business with" the department if the person is a party to a contract with the department or is an executive officer or has an ownership interest of more than ten percent in an entity that is a party to a contract with the department; or files an application with the department for a license, permit or other use entitlement.

The legislation authorizes the Ethics Commission to issue implementing regulations. In addition, it provides for criminal, civil and administrative penalties.

Because the legislation creates a new chapter in the Campaign and Governmental Conduct Code, the legislation does not require the approval of the Ethics Commission. But the Board of Supervisors has referred the legislation to the Commission for comment. Staff believes that the legislation would serve to ensure that governmental decisions are made on the basis of merit, without subjecting vendors and persons who seek governmental decisions to the pressures of gift-giving. At the same time, staff believes that the legislation is narrowly crafted so that it does not prohibit persons from making gifts or donations to a nonprofit group that works to support the activities of a City department. Accordingly, staff recommends approval of the legislation.

Please note that the law does not prohibit employees or officers from soliciting donations directly to the City department – as long as the solicitation does not suggest a *quid pro quo* arrangement. Gifts to the City must be reported publicly by the department, and gifts over \$10,000 must be accepted by the Board of Supervisors. This legislation would not change that. It would only prohibit solicitations of donations to nonprofits that then make gifts to the City.

S:\Conflicts of Interest\2009\Daly FR for NPs 6.09\memo to EC 7.09.doc

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
TEL No. 554-3184: 00
Fax No. 554-5163
TDD/TTY No. 544-5227
ETHICS COMMISSION

BY _____
MEMORANDUM

TO: Ethics Commission

FROM: Angela Calvillo, Clerk of the Board

DATE: June 15, 2009

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Rules Committee

2009 JUN 16 PM 4:00
RECEIVED
ETHICS COMMISSION

The Board of Supervisors Rules Committee has received the following, which is being referred to the Ethics Commission for comment and recommendation.

File: 090795

Ordinance adding a new Chapter 5 to Article III of the Campaign and Governmental Conduct Code, by adding sections 3.500, 3.505, 3.510 and 3.515, to prohibit City employees and officers from soliciting donations to nonprofit organizations to fund City departments from persons doing business with those departments.

Please return this cover sheet with the Commission's response to Linda Wong, Clerk, Rules Committee.

RESPONSE FROM ETHICS COMMISSION - Date: _____

☐ No Comment

☐ Recommendation Attached

Chairperson, Ethics Commission

LEGISLATIVE DIGEST

[Prohibiting City employees and officers from raising funds for City departments.]

Ordinance adding a new Chapter 5 to Article III of the Campaign and Governmental Conduct Code, by adding sections 3.500, 3.505, 3.510 and 3.515, to prohibit City employees and officers from soliciting donations to nonprofit organizations to fund City departments from persons doing business with those departments.

Existing Law

Existing law does not prohibit City employees and officers from soliciting contributions to nonprofit organizations that support City departments.

When making such solicitations, City employees and officers cannot use City business card, titles, email, or other City resources in a way that may lead the solicited parties to believe that the employees or officers are acting in an official capacity when they are not. Additionally, certain departments' Statements of Incompatible Activities prohibit employees or officers from serving on the boards of nonprofit organizations that seek grants from those departments.

Amendments to Current Law

This legislation would prohibit City employees and officers from soliciting donations to nonprofit organizations when the donations would be used to support a City department and the solicited party does business with or has applied for a license, permit or use entitlement from the department. The legislation would prohibit such solicitations only if the City employee or officer soliciting the donation (1) is required to file a Statement of Economic Interests under local law, and (2) works for, has oversight over, makes decisions regarding, or regularly has professional contact with the department that the gift or donation will support.

Each violation would be punishable by criminal penalties up to \$1,000 and/or six months imprisonment, civil penalties up to \$1,000, and administrative penalties up to \$5,000.

[Prohibiting City employees and officers from raising funds for City departments.]

Ordinance adding a new Chapter 5 to Article III of the Campaign and Governmental Conduct Code, by adding sections 3.500, 3.505, 3.510 and 3.515, to prohibit City employees and officers from soliciting donations to nonprofit organizations to fund City departments from persons doing business with those departments.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strike-through normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby amended by adding a new Chapter 5 to Article III, and by adding sections 3.500, 3.505, 3.510 and 3.515 to read as follows:

CHAPTER 5: SOLICITING PARTIES DOING BUSINESS WITH THE CITY

Sec. 3.500. Definitions.

(a) For the purpose of this Chapter, a "person" is any individual, partnership, corporation, association, firm, committee, club or other organization or group of persons, however organized.

(b) For the purpose of this Chapter, a person "has business with" a department if the person:

(1) is a party to a contract with the department, and receives compensation from the City for goods received or services performed;

(2) is an executive officer of or has an ownership interest of more than ten percent in an entity that is a party to a contract with the department; or

(3) files an application with the department for a license, permit or other entitlement for use.

1 Sec. 3.505. Prohibition. No employee or officer of the City and County of San Francisco who
2 is required to file financial disclosures by Chapter 1 of this Article shall solicit or request a gift or
3 donation from any person to a nonprofit organization, if:

4 (a) the employee or officer knows or has reason to know that the organization will use a portion
5 of the gift or donation directly to fund the activities of a department of the City and County of San
6 Francisco including, but not limited to, training, purchase of equipment, admission and travel to
7 conferences and meetings;

8 (b) the employee or officer knows or has reason to know that the person to whom the
9 solicitation or request is directed has business with the department that the gift or donation will
10 support, has had business with that department in the previous twelve months, or will be seeking to
11 have business with that department in the following twelve months; and

12 (c) in his or her official capacity with the City, the employee or officer works for, has oversight
13 over, makes decisions regarding, or regularly has professional contact with the department that the gift
14 or donation will support.

15 3.510. Regulations. The Ethics Commission may issue regulations implementing this Chapter
16 pursuant to Charter Section 15.102.

17 3.515. Enforcement and Penalties.

18 (a) Criminal penalties. Any person who knowingly or willfully violates Section 5.105 of this
19 Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not
20 more than \$1,000 for each violation or by imprisonment in the County jail for a period of not more
21 than six months or by both such fine and imprisonment.

22 (b) Civil penalties. Any person who intentionally or negligently violates Section 5.105 of this
23 Chapter shall be liable in a civil action brought by the City Attorney for an amount up to \$1,000 for
24 each violation.

1 (c) Administrative penalties. Any person who intentionally or negligently violates Section 5.105
2 of this Chapter shall be liable in an administrative proceeding before the Ethics Commission held
3 pursuant to the Charter, and shall be subject to the administrative orders and penalties authorized
4 therein. In addition to the administrative orders and penalties set forth in the Charter, the Ethics
5 Commission may issue warning letters to City officers and employees.

6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: 
9 JON GIVNER
10 Deputy City Attorney
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City Librarian Luis Herrera has asked the Commission to consider the following amendment, which would insert a new subsection 3.500(c), beginning at the bottom of page 1 of the draft legislation. Kathy Lawhun, the Chief of the Main Library, will attend the Commission's meeting to discuss the proposal.

(c) For the purpose of this Chapter, to "solicit or request" means to ask or encourage a person to make a gift or donation. "Solicit or request" does not include thanking a person for attending a fundraising event, thanking a person for making a gift or donation after the person has made the gift or donation, or making a speech at a fundraising event in which the speaker thanks a nonprofit organization for supporting a department of the City and County of San Francisco.





ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

EXECUTIVE DIRECTOR'S REPORT TO THE SAN FRANCISCO ETHICS COMMISSION For the Meeting of July 13, 2009

MIENNE S. STUDLEY
CHAIRPERSON

SUSAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

1. FY 09-10 Budget.

As reported previously, the Mayor's budget released June 1 provided \$4,211,566 in Fiscal Year 2009-2010 for the Ethics Commission, which is a four percent increase over the past year's budget of \$4,031,106. The Budget Analyst recommended a cut of \$5,700, which the Budget and Finance Committee adopted and which will be taken out of the Commission's supplies budget. At the July 13, 2009 meeting, I will provide a recap of our budget and discuss the Election Campaign Fund.

2. Investigation and enforcement program.

Since its last regular meeting on June 8, 2009, the Commission has received two new complaints. There are currently 16 complaints pending in the Commission's jurisdiction.

Category	# of Complaints
Campaign Finance	6
Conflict of Interest	2
Governmental Ethics	2
Lobbyist Ordinance	2
Campaign Consultant Ordinance	1
Sunshine Ordinance	3
TOTAL	16

3. Campaign finance disclosure program.

a. **Filing deadline.** The next filing deadline is July 31, 2009 for the First Semi-Annual statements, which covers the reporting period beginning the day after the closing date of the last statement filed, or January 1, 2009 through June 30, 2009. Staff sent a courtesy notice to filers to remind them of the upcoming filing deadline and to inform them about recent updates to FPPC rules and regulations. Staff has scheduled electronic filing clinics for SFEDS users who wish to have assistance with submitting their campaign statements electronically. These electronic filing clinics will be held on July 15, 16, and 21 at 12 noon and 4 p.m. Candidates, treasurers, and/or other committee representatives may use the Commission's computers to prepare their campaign statements during these scheduled clinics or at any other time during office hours.

b. Collection of late filing fees and contribution forfeitures. Campaign finance collections as of June 30th for FY 08-09 totaled \$48,673. Campaign finance collections as of July 8th for FY 09-10 totaled \$1,440, based on filings made during previous fiscal years. By comparison, campaign finance collections as of July 8th in prior fiscal years were as follows:

Fiscal year	Collections by July 8	Total collections in FY
02-03	\$10	\$49,322
03-04	\$404	\$51,607
04-05	\$0	\$199,524
05-06	\$1,871	\$85,390
06-07	\$3,991	\$119,814
07-08	\$2,565	\$65,035
08-09	\$205	\$48,673

The \$1,440 amount is based on prior assessments as follows:

FY when assessed	Amount collected in 09-10
08-09	\$1,440.00
Total:	\$1,440.00

FY 08-09 waivers, as well as waivers from past years provided for comparison, are as follows:

FY when assessed	Amount assessed	Amount waived during FY
04-05	\$907,069	\$683,086
05-06	\$546,859	\$342,901
06-07	\$181,831	\$50,347
07-08	\$217,444	\$159,880
08-09	\$322,529	\$107,176

To date, the outstanding balance of late fees assessed from the current and previous years, including \$72,281 in fees that have been referred to the Bureau of Delinquent Revenues, is \$214,839, down from \$218,168 as last reported.

The current outstanding balance of contribution forfeitures assessed as a result of the defective reporting of contributor information and contribution limit violations is \$71,218, down from \$71,518 as last reported. The \$71,218 amount consists of forfeitures from the 2005-2006 filing periods and does not include forfeiture assessments from the 2008 filing period. Staff continues to process requests for waiver of late fees and forfeitures.

c. Status of accounts to San Francisco Bureau of Delinquent Revenues (BDR). The following chart provides details on pending accounts referred to BDR:

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
1	Committee to Elect Rebecca Silverberg	1220430	Lucia Paulazzo	5/6/05	\$21,086.00	\$21,086.00	\$21,086.00
2	Yick Tsun Society, Inc.	PEN1078	Florence Fang	8/16/05	\$7,550.00	\$7,550.00	\$7,550.00
3	SEIU Local 87	PEN951	Mike Garcia & Michael Baratz	8/25/05	\$14,350.00	\$14,350.00	\$14,350.00
5	Johnnie Carter for Community College Board	1226264	Johnnie Carter	6/16/06	\$9,520.00	\$7,095.00	\$6,595.00
7	Micheas Herman	PEN788	Micheas Herman	6/26/06	\$100.00	\$100.00	\$100.00
8	San Franciscans for Fair & Honest Government	1258209	Erik Howell	10/20/06	\$4,659.22	\$4,659.22	\$4,659.22
9	Myrna Viray Lim for District 11 Supervisor	1256697	Jia Jun Chen	4/27/07	\$3,855.00	\$3,855.00	\$3,855.00
10	Committee to Elect M. Valle for Treasurer	1278937	Manuel B. Valle	6/14/07	\$5,525.00	\$5,525.00	\$5,525.00
11	Shawn Westcott	PEN1102	Shawn Westcott	6/18/07	\$100.00	\$100.00	\$100.00
12	Committee to Elect Vilma Guinto-Peoro Supervisor District #2	1291394	Vilma Guinto-Peoro	6/18/07	\$10.00	\$10.00	\$10.00
13	Bill Barnes for District 5	1265969	Alix Rosenthal	1/3/08	\$3,120	\$3,120	\$3,120
14	Care Not Cash	1244505	Ronald Jin	2/29/08	\$5,331	\$5,331	\$5,331

d. Electronic filing. On April 30, 2009 staff provided 60 days' notice that committees subject to the electronic filing requirements under section 1.112(b) will be required to file FPPC Forms 461 (Independent Expenditure Committee and Major Donor Committee Campaign Statement) and 465 (Supplemental Independent Expenditure Report) in electronic format starting July 1, 2009. Electronically filed forms and data will be made available to the public on the Ethics Commission's web site. This new electronic filing requirement is in addition to the paper filing requirement. Forms 461 and 465 were added to the San Francisco Electronic Disclosure System (SFEDS) through the Commission's contract with Netfile.

4. Revenues report.

For FY 08-09, the Commission was budgeted to generate \$175,000 in revenues. As of June 30, 2009, the Commission received \$114,336 as summarized below. The figure represents collection of approximately 65 percent of expected revenues for FY 08-09.

Revenues Received as of June 30, 2009

Source	Budgeted Amount FY 08-09	Receipts
Lobbyist Fees	\$40,000	\$33,892
Other Ethics General	\$1,000	\$633
Campaign Finance Fines	\$105,000	\$47,390
Campaign Consultant Fees	\$5,000	\$20,772
Lobbyist Fines	\$1,000	\$2,500
Statements of Economic Interests Fines	\$1,000	\$1,895
Other Ethics Fines	\$20,000	\$6,349
Campaign Consultant Fines	\$2,000	\$980
Total	\$175,000	\$114,411

5. Public financing/Campaign finance audit program.

Staff is working on audits of candidates who received public financing in 2008. Staff is also preparing candidate and recipient committee training materials for the 2009 election season.

6. Lobbyist program.

As of July 1, 2009, there are 42 lobbyists registered with the Commission. In the 2008-2009 fiscal year, \$33,892 in lobbyist fees and \$2500 in fines were collected, for a total of \$36,392. The next required filing is July 15, 2009, for the second quarter of 2009.

7. Campaign Consultant program.

As of July 7, 2009, twenty campaign consultants are active and registered with the Commission. In the 2008-2009 fiscal year, \$20,722 in registration fees and \$50 in fines were collected, for a total of \$20,772. The deadline for the second quarter 2009 report was June 15, 2009. All active campaign consultants filed quarterly reports; one consultant filed late. The quarterly report summary and press release have been posted to the Commission's website.

The next quarterly report is due September 15, 2009. Staff will send reminder notices to all active campaign consultants two weeks prior to the deadline.

8. Statements of Economic Interests.

April 1 was the deadline for designated officers and employees to file their annual Statement of Economic Interests ("SEIs"). Staff continues to process incoming SEIs and Sunshine Ordinance Declarations, by logging them into a database and scanning them for upload to the Commission's website. A list of filers is viewable on the Commission's website.

The following table reflects annual statements filed as of July 8, 2009.

FORM	FILERS	TOTAL # OF FILERS
Statement of Economic Interests (SEI)	594	629

Upon review, the total number of filers dropped from 690 to 629 because staff determined that 61 annual filers left office in 2008 or earlier and are required to file Leaving Office SEIs instead of Annual SEIs.

On May 6, 2009, staff issued 136 non-filer notices. On June 8, 2009, staff issued 48 second non-filer notices to those who were unresponsive to the first notice. As of July 8, 2009, 75 non-filers informed us that they left office, 20 non-filers filed their annual SEIs, five informed us that they hold a position that is not required to file with the Ethics Commission, two filed at the wrong location and are in the process of forwarding the original to us, one e-filed and has not filed an original, and 33 non-filers remain nonresponsive. On July 8, 2009 staff issued third non-filer notices to these 33 non-filers.

Enforcement staff continues to audit departments for SEI filing compliance. Since the Commission's last meeting, staff has audited the following departments, each of which had a 100% compliance rate: 1) Department of Public Works; and 2) Local Agency Formation Commission. Staff has completed approximately 80 percent of the 2007 calendar year audits. For the 2008 SEIs, which were due April 1, 2009, staff is in the process of auditing the 60 departments and commissions for SEI filing compliance.

9. Outreach and Education.

On June 22, 2009, staff provided an SEI Training for the Civil Grand Jury. On June 29, 2009, staff provided a Lobbyist Ordinance Training for lobbyists, their representatives, elected officials, the media, department heads, and other interested persons.

Ethics staff continues to provide trainings on conflict of interest laws and the Statements of Incompatible Activities (SIA) to City departments. The following trainings are currently scheduled for 2009:

- Department of Children Youth and their Families SIA Training: July 28
- Building Inspection Commission, Access Appeals Commission, Board of Examiners and Unreinforced Masonry Building Appeals Board SIA Training: September 30

10. New Web Site

The Commission has a new web site and address at <http://www.sfethics.org>. The new web site offers the following changes, improvements, and technology upgrades:

- Reorganized content to simplify navigation and a new web site design. The new design better conforms to World Wide Web Consortium (W3C) and Federal Section 508 web accessibility standards than the previous web site. This will improve accessibility for users with disabilities.
- The Department of Technology is requiring all departments to migrate off of the current City web site infrastructure. The Commission has now completed this migration. The new web platform is significantly more flexible than the previous platform and provides the ability to use new technologies such as feeds, video, and audio.

- A public calendar to track Commission meetings, trainings, and important deadlines. The calendar is viewable on the web or the public can subscribe to it and receive live updates from a desktop calendar application, web calendar, or mobile phone.
- Commission meeting audio recordings will now be posted to the web. The public can listen on the web or subscribe to the recordings as a podcast from the iTunes Local Government Podcast Directory.
- Training videos will be posted in the coming months that will be accessible in the new Education section of the web site and on YouTube.
- RSS (Really Simple Syndication) feeds are available for important news, minutes, agendas and calendar postings. RSS allows the public to track and be notified of updates on the Commission's web site without visiting the site. RSS feeds will also automatically push news posted to the Commission web site to other web sites such as social networking sites. Commission news updates can now be tracked by users of Facebook and Twitter. Links on external sites refer the user back to the original source on the Ethics Commission web site.
- An improved back-end statistical reporting system is now accessible to staff to help better understand how the public navigates and uses the web site.

11. Statements of Incompatible Activities

In response to a May 26, 2009 memo to all departments, boards and commissions requesting that they provide copies of advance written determinations (AWDs) and summaries of complaints filed under the respective Statements of Incompatible Activities, the Commission received 17 replies. No complaints were reported; nine AWDs were reported, with disposition as follows:

Department	Number of AWDs Received	Number granted	Number denied
Public Health	1	1	0
Office of Citizen Complaints	2	0	2
Child Support Services	1	1	0
Planning	5	4	1

Respectfully submitted,



John St. Croix
Executive Director

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[DRAFT]
Minutes of the Regular Meeting of
The San Francisco Ethics Commission
July 13, 2009
Room 408, City Hall

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I. Call to order and roll call.

Chairperson Studley called the meeting to order at 5:35 p.m.

COMMISSION MEMBERS PRESENT: Jamienne Studley, Chairperson; Susan Harriman, Vice-Chairperson; Emi Gusukuma, Commissioner; Eileen Hansen, Commissioner; Charles Ward, Commissioner.

STAFF PRESENT: John St. Croix, Executive Director; Mabel Ng, Deputy Executive Director; Paul Solis, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Jon Givner, Deputy City Attorney.

OTHERS PRESENT: Kathy Lawhan; Anne Wintroub; John Buchanan; Luis Cancel; Dennis Kern; Meredith Thomas; and other unidentified members of the public.

MATERIALS DISTRIBUTED:

- Memorandum from Executive Director to Ethics Commission re: Waiver from Compensated Advocacy Ban for Patrick Buscovich, July 8, 2009
- Memorandum from Executive Director to Ethics Commission re: Legislation to clarify application of conflict of interest provisions under Chapter 2, Article III of San Francisco Campaign and Governmental Conduct Code, July 8, 2009
- Memorandum from Executive Director to Ethics Commission re: Legislation regarding the solicitation of donations to friends' groups, July 7, 2009
- Draft Minutes of the June 8, 2009 Regular Meeting
- Executive Director's Report to the Ethics Commission for the Meeting of July 13, 2009

II. Public comment on matters appearing or not appearing on the agenda that is within the jurisdiction of the Ethics Commission

None.

III. Consideration of request for waiver from compensated advocacy ban by Patrick Buscovich, a member of the Board of Examiners, Department of Building Inspection

Patrick Buscovich introduced himself and stated that he has been asked to serve on the Board of Examiners. He stated that he is one of about 30 licensed structural engineers in San Francisco. He stated that he conducts his business exclusively in the City and needs a waiver to continue.

Chairperson Studley asked if the Building Inspection Commission ("BIC") has discussed the issue with staff. Deputy Director Ng stated that the BIC contacted staff and stated that it is difficult to recruit members to the Board of Examiners.

Commissioner Ward discussed the dissenting District Attorney ("DA") opinion. Ms. Ng stated that the DA's opinion defers to the Ethics Commission on whether to grant a waiver and, in any event, recognized that the granting of a waiver does not provide Mr. Buscovich immunity from alleged violations of laws other than the compensated advocacy ban.

Commissioner Hansen stated that although she supports this waiver, she does not generally like to grant them. She stated that she would feel less comfortable granting the waiver if the Commission was not addressing Agenda Item IV at the current Commission meeting.

Public Comment:

None.

Motion 09-07-13-1 (Harriman/Ward) Moved, seconded and passed (5-0) that the Ethics Commission grant the Buscovich waiver.

V. Consideration of amendments to create a new Chapter 5 in Article III of the San Francisco Campaign and Governmental Conduct Code

Executive Director St. Croix stated that the legislation does not require Commission approval but the Clerk of the Board referred the matter to the Commission for review. The legislation was proposed by Supervisor Daly.

Commissioner Harriman inquired about the problem the legislation attempts to address. She stated that without comment from Supervisor Daly, the legislation was overbroad as written. Commissioner Gusukuma stated that because the penalties for violation could include criminal penalties, she needs clarification from Supervisor Daly before she would approve. Commissioner Ward stated that he would like the Commission to take some affirmative action on the legislation. Commissioner Hansen stated that she approves of the thrust of the legislation because she believed it addressed some type of past issue, but would like Commission discussion at the current meeting.

Public Comment:

Kathy Lawhan, on behalf of the City Librarian stated that the legislation would prevent the Friends of the Library group from aiding much of the work of the Library. She stated that staff would be prevented from attending events and fundraisers by the Friends of the Library. She also stated that she would like further clarification on what "solicit" means within the legislation.

Commissioner Hansen asked what would happen if the Friends of the Library did not exist. Ms. Lawhan stated that without the Friends group fundraising and cooperating with Library staff, the Library may have to create a new division.

Chairperson Studley asked if donations directly to the Library are tax deductible. Ms. Lawhan stated that they are but that the donations of \$100 or more must be posted on the website with the name of the source.

Anne Wintroub explained the work of the Friends of the Library and gave examples of how the legislation would negatively affect the relationship between the City and the Friends group. She stated that City officials speaking at public events funded by the Friends would be deterred from thanking attendees for their efforts. She stated that public-private partnerships are essential to thriving City programs.

John Buchanan on behalf of the Fine Arts Museums of San Francisco stated that Fine Arts Museums were founded by charitable donations. He stated that private sector money is essential to Fine Arts.

Luis Cancel on behalf of the Arts Commission stated that arts in the City would be adversely affected by the legislation and would prohibit the Commission from raising private money. He stated that the Commission receives only \$15,000 in appropriated money each year *[I don't think this is right]* and needs fundraising efforts to continue to sustain the Commission's work.

Dennis Kern on behalf of the Recreation and Parks Department stated that his agency seeks public-private partnerships and that this legislation deters them.

Meredith Thomas on behalf of the Neighborhood Parks Council stated that the legislation is overbroad and that it prevents the Council from furthering the progress of City parks. She stated that the Council must be able to work closely with the Recreation and Parks Department and that private groups need to know that their investments will actually involve public agencies.

Commissioner Ward stated that the Commission should send the legislation back with a comment derived from public comment. He stated that the comment should reflect the unintended consequences heard from the public. Commissioner Harriman stated that Supervisor Daly should receive a transcript from agenda item V. Chairperson Studley agreed with the recommendations. Commissioner Hansen stated that a portion of the meeting should go to Supervisor Daly and that he should actually attend a future meeting, should the legislation go forward.

Motion 09-07-13-2 (Harriman/Ward) Moved, seconded and passed (5-0) that the Ethics Commission send the legislation back to Supervisor Daly with an attached transcript of Commissioner and public comments on agenda item V.

Commissioner Hansen stated that a recent opinion piece in the Examiner had claimed that the Commission supported Supervisor Daly's legislation. She stated that this claim should be corrected because the Commission has yet to approve legislation.

IV. Consideration of possible amendments to Chapter 2, Article III of the San Francisco Campaign and Governmental Conduct Code

Deputy Director Ng discussed staff's memo. Commissioner Gusukuma asked why a new waiver system would be created with the amendments. Deputy City Attorney Givner stated that there is no current waiver from the contracting ban and the implementation of this waiver system would promote consistency in the Campaign and Governmental Conduct Code. He also stated that appointing officials have expressed frustration that the current ban hinders their ability to appoint specialized individuals to boards and commissions.

Chairperson Studley asked if the amendments would include members of boards and commissions into the definition of "officer," to which Ms. Ng responded that the amendments would.

Commissioner Hansen stated that she was concerned that members of the community college board were not subject to the conflict of interest rules discussed in the agenda item. She asked if that issue could be addressed. Mr. Givner responded that the City has only certain powers to regulate community college elections.

Public Comment:

None.

Motion 09-07-13-3 (Hansen/Harriman) Moved, seconded and passed (5-0) that the Ethics Commission approve amendments to Chapter 2, Article III of the San Francisco Campaign and Governmental Conduct Code.

VI. Discussion of Fiscal Year 2009-2010 budget outcomes

Executive Director St. Croix discussed the Election Campaign Fund and stated that he believes there will be enough money for the next Supervisorial election but possibly not the next Mayoral election. He stated that the Mayor's Office has pledged to return any money taken out of the fund.

Commissioner Ward asked how the Commission will know whether the Mayor's Office will continue to take out funds. Mr. St. Croix stated that there is no certainty but that there would be significant public concern if the fund was not sufficient.

Commissioner Hansen stated that the Mayor's Office should appear before the Commission to discuss the matter. She stated that when the Mayor takes money from the Fund without telling the Commission, there may not be sufficient trust in the Mayor's guarantee to return the funds. Mr. St. Croix stated that a written guarantee by the Mayor's Office to replenish all the funds has satisfied members of the Board of Supervisors.

Public Comment:

None.

VII. Closed Session

Public Comment:

None.

Motion 09-07-13-4 (Hansen/Harriman) Moved, seconded and passed (5-0) that the Ethics Commission go into a closed session.

The Commission went into closed session at 6:44 p.m.

VIII. Discussion and vote regarding closed session action and deliberations

The Commission returned to open session at 8:20 p.m.

Public Comment:

None.

Motion 09-07-13-5 (Harriman/Gusukuma) Moved, seconded and passed (5-0) that the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations.

IX. Minutes of the Commission's regular meeting of June 8, 2009

Public Comment:

None.

Motion 09-07-13-6 (Gusukuma/Ward) Moved, seconded and passed (5-0) that the Ethics Commission adopt the minutes of the Commission's regular meeting of June 8, 2009.

X. Executive Director's Report

Executive Director St. Croix stated although there was a three percent increase to the Commission budget, Supervisor Chiu has recently authored legislation to reduce tech budgets from any City department with a tech division. He stated that he must take \$4,000 from the three percent increase. Mr. St. Croix also stated that the Commission has a new website and that staff will be implementing changes to address any problems.

Commissioner Hansen stated that she would like to see greater detail about waiver requests in the Executive Director's report. She also asked if staff could track leaving office Statements of Economic Interests better. Mr. St. Croix stated that leaving office statements are difficult to track because agency staff monitoring the statements cannot always contact the former officer.

Commissioner Hansen inquired about what staff can do to get non-filers to file. Commissioner Hansen also asked if any archive issues would be addressed with the new website to which Mr. St. Croix stated that they would.

Public Comment:

None.

XI. Items for future meetings

None.

XII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission

None.

XIII. Adjournment

Public Comment:

None.

Motion 09-07-13-7 (Ward/Harriman) Moved, seconded and passed (5-0) that the Ethics Commission adjourn.

The meeting was adjourned at 8:32 p.m.

Respectfully submitted,

Paul Solis

Investigator/ Legal Analyst

Ethics Commission



25 Van Ness Ave., Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

**SAN FRANCISCO ETHICS COMMISSION
NOTICE OF REGULAR MEETING**

08-05-09P04:49 RCVD **August 10, 2009 5:30 P.M.**

and AGENDA

Room 408 City Hall

1 Dr. Carlton B. Goodlett Place, San Francisco

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- I. **Call to order and roll call.**
- II. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**
- III. **Consideration of possible amendments to the Campaign Finance Reform Ordinance (CFRO), San Francisco Campaign and Governmental Conduct Code section 1.100 et seq. Staff has worked with Supervisor Daly on possible amendments to CFRO that include, but are not limited to refining definitions, eliminating and streamlining reporting requirements, authorizing greater electronic filing, adjusting expenditure limits for inflation, clarifying the permitted uses of campaign funds, limiting which candidates are eligible to accept the voluntary expenditure ceilings, increasing voluntary expenditure ceilings in response to third party spending in support of competing candidates, modifying how public funds are disbursed to candidates, clarifying the requirements for third-party reporting, amending the statute of limitations for administrative actions, and imposing record-retention requirements on local committees. A staff report, the draft amendments and a legislative digest are available from the Commission office and website. Supervisor Daly or a member of his staff may attend the meeting to answer questions. (Discussion and possible action.)**
- IV. **Consideration of possible amendments to the \$500 contribution limit under section 1.114(a) of the Campaign and Governmental Conduct Code. The \$500 contribution limit was first enacted in 1973 and went as high as \$1,000 in 1983. In 2005, the Commission re-authorized the current \$500 contribution limit. The Commission will receive input on whether the contribution limit should be changed, and if so, how should it be changed. A subsequent interested persons meeting may be held on this subject. (Discussion.)**
- V. **Minutes of the Commission's regular meeting of July 13, 2009. (Discussion and possible action.)**
- VI. **Executive Director's Report. An update of important Ethics Commission staff activities since the previous monthly meeting. (Discussion.)**

- VII. Items for future meetings. Commissioners may propose items for future agendas and the Commission may determine the priority of these items. (Discussion.)
- VIII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.
- IX. Adjournment.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sffasfegov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>.

If any materials related to an item on this agenda have been distributed to the Ethics Commission after distribution of the agenda packet, those materials are available for public inspection at the Ethics Commission, 25 Van Ness Avenue, Suite 220, San Francisco, during normal office hours.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing devices.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct. Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102; telephone (415) 252-3100; fax (415) 252-3112 and web site www.sfgov.org/ethics

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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

GOVERNMENT
DOCUMENTS DEPT

AUG 05 2009

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Date: August 3, 2009
To: Members, Ethics Commission
From: John St. Croix, Executive Director
By: Mabel Ng, Deputy Executive Director
Re: Proposed amendments to Campaign Finance Reform Ordinance

Staff has worked with Supervisor Daly to propose amendments to the Campaign Finance Reform Ordinance (CFRO), Article I of the San Francisco Campaign and Governmental Conduct Code (S.F. C&GCC), for the Commission's consideration at its August 10, 2009 meeting. On July 17 and 28, staff held two interested persons meetings to present and obtain input on the proposed amendments. The proposed amendments incorporate some of the comments made at those meetings.

This memorandum highlights the more substantive amendments, most of which stem from staff's administration of the CFRO and the City's public financing program. In general, the proposed changes will make it easier for candidates and committees to comply with the law, and will consolidate filing requirements to make it easier for the public to monitor campaigns as well as for the staff to administer the law.

Section 1.104. Definitions:

In this section, the proposals:

- reference the Political Reform Act, California Government Code section 81000 et seq. (PRA) for definitions such as "candidate," "committee," "contribution," "controlled committee," "general purpose committee," and "independent expenditure";
- add new definitions such as "candidate committee" to distinguish between an individual candidate and that individual's campaign committee; add "Code" to mean the S.F. C&GCC; "member communication," "withdrawal" or "withdraw";
- move certain definitions such as "itemized disclosure statement," "mass mailing," "unexpended public funds" from other sections of the CFRO into this definitions section;
- amend the definition of "surplus funds" to exclude its application to funds remaining in the campaign account of a committee primarily formed to support or oppose a ballot measure; and

- make other clarifying changes to definitions, including “matching contribution,” “measure” and “qualifying contribution.”

Section 1.108. Candidate Committee Campaign Trust Accounts and Campaign Contingency Accounts:

In this section, the proposals:

- delete the requirement that a committee file its bank account and branch identification number with Ethics Commission, as state law already requires committees to provide this information when they are first established; and
- clarify how publicly financed candidates may use their contingency accounts.

1.112. Electronic Campaign Disclosure

- The proposals clarify that certain committees required to file disclosure reports under the *state law* must file electronically with the Ethics Commission if they meet specific thresholds (e.g., committees that meet the \$5000 contribution or expenditure threshold). The proposals also authorize the Commission to require the electronic filings of reports required by *local law*, without any monetary threshold.

1.113. Disclosure Requirements During Signature Gathering Periods for Initiatives, Referenda and Recalls

- The proposals simplify the schedule governing when committees raising or spending funds to support or oppose a measure during the signature-gathering period for initiative, referendum, or recall petitions must file disclosure reports with the Ethics Commission.

1.118. Payment of Accrued Expenses

- The proposals codify the March 23, 2009 Ethics Commission Pearce Advice Letter by clarifying that candidate committees, rather than individual candidates, are responsible for the payment of accrued expenses. Individual candidates still may be liable for their controlled committees’ violations of CFRO.

1.122. Solicitation or Acceptance of Campaign Contributions – Limitation

- The proposals clarify that a withdrawn, defeated or departed candidate may use campaign funds to pay outstanding campaign debts and expenses associated with terminating the committee. The proposals also authorize Commission to identify by regulation other permissible uses of such funds.

1.128. Acceptance or Rejection of Voluntary Expenditure Ceilings

In this section, these proposals:

- change the law so that candidates for the Board of Supervisors or Mayor may no longer accept a voluntary expenditure ceiling (VEC) because candidates for those offices may opt to accept public financing, which requires each candidate to comply with an individual expenditure ceiling (IEC). Candidates for all other local offices still could accept a VEC;
- allow other candidates to accept the VEC any time – instead of no earlier than June 1 of the year in which they are seeking election – up to the deadline for filing nomination papers;

- delete the requirement that the Director of Elections publish notices in the Voter Information Pamphlet indicating which candidates have accepted the VEC; and
- require the Ethics Commission to maintain on its website a list of candidates who have accepted the VEC.

1.130. Amount of Voluntary Expenditure Ceilings

The proposals adjust the voluntary expenditure ceilings as follows to reflect inflation:

- the VEC for the offices of Assessor, Public Defender, City Attorney, District Attorney, Treasurer or Sheriff would increase from \$229,000 to \$243,000; and
- the VEC for the offices of Board of Education or Community College District would increase from \$98,000 to \$104,000.

1.134. Lifting of Voluntary Expenditure Ceilings; Supplemental Reporting etc.

In this section, the proposals:

- require all candidates in races other than for the Board of Supervisors or Mayor to report, within 24 hours, when they receive contributions or make expenditures that total more than 100 percent of the applicable VEC; and
- clarify that third parties must file supplemental reports, along with a legible copy or electronic recording of the communication, when their expenditures regarding those races reach or exceed \$5,000 per candidate.

1.135. Supplemental Pre-Election Statements

In this section, the proposals:

- clarify that a committee must file pre-election statements if it makes contributions or *independent* expenditures of \$500 or more during the pre-election period; and
- clarify that in even-numbered years, committees must file supplemental pre-election statements in accordance with the schedule established by the Fair Political Practices Commission. (The Commission approved the substance of these amendments in May 2008, but the Board of Supervisors did not take up the legislation.)

1.140. Eligibility to Receive Public Financing

In this section, the proposals:

- increase the amount that a publicly-financed candidate may loan or donate to his or her committee from \$5,000 to \$15,000;
- require a candidate to have paid any fines imposed for any violation of the S.F. C&GCC, which would, for example, include fines for violations of the conflict of interest or lobbyist laws;
- require a candidate to have filed any forms required by the S.F. C&GCC;
- require that the candidate has not willfully violated the S.F. C&GCC within the last five years;
- increase the individual expenditure ceiling (IEC) of a publicly financed candidate for the Board of Supervisors from \$140,000 to \$143,000 to reflect inflation; and
- increase the IEC of a publicly financed candidate for Mayor from \$1,375,000 to \$1,475,000 to reflect inflation.

Section 1.144. Disbursement of Public Funds

In this section, the proposals:

- change the time that public funds must be disbursed to candidates by the Controller from 48 hours to two business days, except that in last 15 days (instead of 60 days) before the election, such payments must be made within one business day rather than 24 hours;
- increase the maximum amount of public funds available to publicly-financed mayoral candidates from \$850,000 to \$950,000, unless the per candidate available disbursement limit is greater than \$950,000 and the candidate's IEC has been raised;
- increase the maximum amount of public funds available to publicly-financed supervisorial candidates from \$87,500 to \$89,000, unless the per candidate available disbursement limit is greater than \$89,000 and the candidate's IEC has been raised; and
- provide that no candidate may submit a claim for public funds if the candidate has any claims already pending with the Ethics Commission.

Section 1.148. Restrictions on Use of Public Funds; Unexpended Public Funds

- The proposals eliminate the requirement that a publicly financed candidate turn over to the City any equipment that has a fair market value greater than \$100.

Section 1.150. Audit; Repayment

- The proposals codify the Commission's practice of initiating random and targeted audits.

Section 1.152. Supplemental Reporting in Elections for Board of Supervisors and Mayor

- The proposals clarify that third parties must file supplemental reports, along with a legible copy or electronic recording of the communication, when their expenditures reach or exceed \$5,000 per candidate for the Board of Supervisors, or \$10,000 (instead of \$5,000) per candidate for Mayor.

1.156. Report to the Mayor and Board of Supervisors

- The proposals delete the requirement that the Ethics Commission study and prepare reports on the public financing after the 2007 and 2008 elections. The Ethics Commission has completed these reports.

Section 1.161. Disclosure and Filing Requirements for Mass Mailings

Currently, parties sending mass mailings may, depending on the circumstances, file multiple reports disclosing the same information to the Ethics Commission. In this section, the proposals:

- provide that a person required to disclose expenditures for a mass mailing under section 1.134, 1.152 or 1.161.5 need not file an additional itemized disclosure under section 1.161; and
- authorize the Commission to permit the facsimile filing of itemized disclosure statements and mass mailings.

1.161.5. Disclosure and Filing for Electioneering Communications

Currently, parties sending mass mailings may, depending on the circumstances, file multiple reports disclosing the same information to the Ethics Commission. In this section, the proposals:

- provide that a person required to disclose expenditures for an electioneering communication under section 1.134, 1.152 or 1.161 need not file an additional itemized disclosure under section 1.161.5;
- delete language regarding late filing fees because section 1.170(d) separately addresses late filing fees; and
- eliminate “expenditures” as an exception to the definition of “electioneering communication.” In the November 2008 election cycle, the exclusion of “expenditures” limited the Ethics Commission’s ability to track all third-party spending, such as third-party spending relating to ballot measures when such spending included communications that identified a candidate for City elective office.

1.168. Enforcement; Advice

- The proposals shorten the statute of limitations for administrative action from five to four years after the date on which the violation occurred.

Deleted Sections

- **1.134.5** (Lifting of Individual Expenditure Ceilings) has been renumbered and replaced by new section 1.143.
- **1.158** (Implementing Regulations; Forms) has been renumbered as new section 1.175.
- **1.160** (No Limitation of Candidate Liability) has been renumbered as new subsection 1.170(g).

New section 1.109. Retention of Records

- This new section requires all candidates and committees to maintain their records for four years. It also requires committees to submit to the Ethics Commission documents upon ten days’ notice if the Commission articulates a reason for its request in writing.

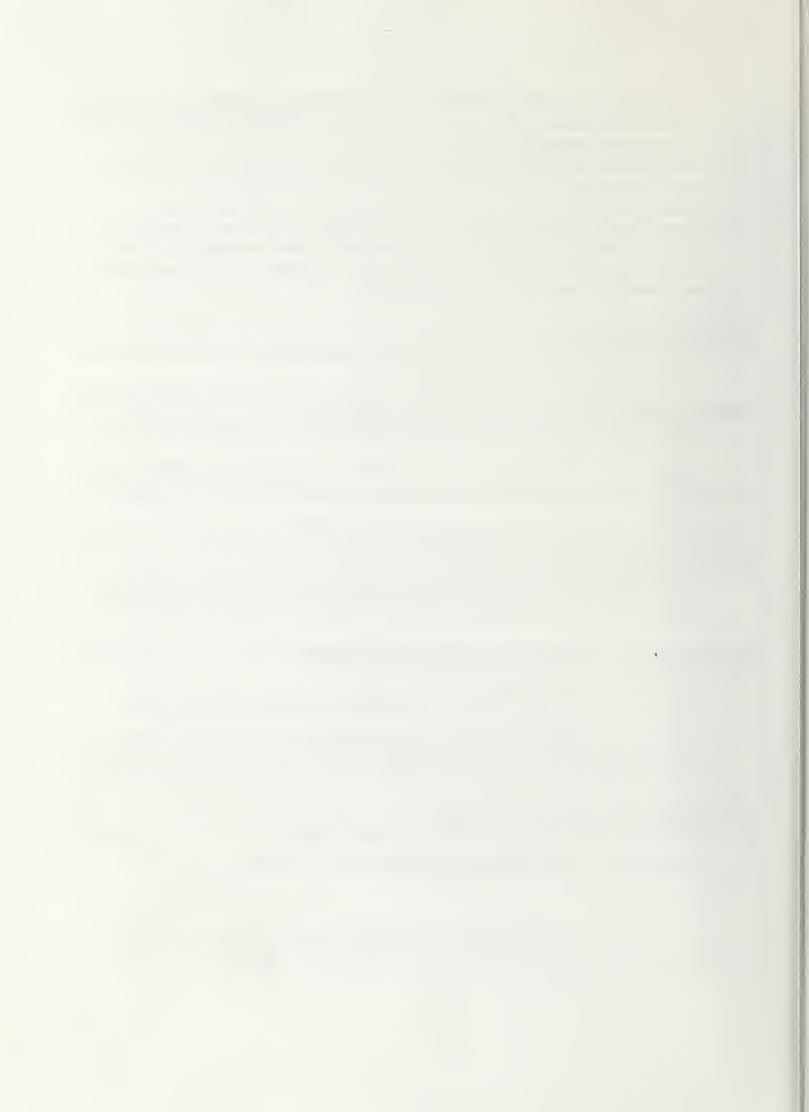
New section 1.143. Adjusting Individual Expenditure Ceilings

This new section:

- generally restates current section 1.134.5, except that it incorporates higher IECs for candidates for Mayor (\$1,475,000) and the Board of Supervisors (\$143,000); and
- shortens the time period in which the Executive Director must determine whether a communication filed under section 1.152 supports or opposes one or more candidates from four business days to two business days.

New section 1.171. Issuance of Subpoenas

- This new section provides that the Ethics Commission, including the Executive Director, may issue subpoenas in furtherance of its duties under the Charter.



FILE NO.

AUG 05 2009

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LEGISLATIVE DIGEST

[Amendments to Campaign Finance Reform Ordinance.]

Ordinance amending Article I, Chapter I of the Campaign & Governmental Conduct Code by amending sections 1.100, 1.104, 1.107, 1.108, 1.112, 1.113, 1.114, 1.118, 1.122, 1.128, 1.130, 1.134, 1.135, 1.136, 1.140, 1.142, 1.144, 1.146, 1.148, 1.150, 1.152, 1.156, 1.161, 1.161.5, 1.168, 1.170, deleting sections 1.134.5, 1.158, and 1.160, and adding sections 1.109, 1.143, 1.171, and 1.175 to refine and conform definitions; to eliminate and streamline reporting requirements; to authorize greater electronic filing; to adjust expenditure ceilings for inflation; to clarify the permissible uses of campaign funds; to provide that certain candidates are eligible to accept Voluntary Expenditure Ceilings; to set forth the instances in which the Ethics Commission will lift Voluntary Expenditure Ceilings; to modify how public funds are disbursed to eligible candidates; to clarify the requirements for third-party reporting; to amend the statute of limitations for administrative actions; and to impose record retention requirements on local committees.

Existing Law

The City's Campaign Finance Reform Ordinance ("CFRO") is codified at Article I, Chapter I of the Campaign & Governmental Conduct Code.

1. **Definitions:** Section 1.104 defines many of the terms used in CFRO.
2. **Trust Accounts and Contingency Accounts:** Section 1.108 requires that all contributions received by a candidate committee be deposited in and spent from a single bank account, referred to as a Campaign Contribution Trust Account. Campaign Contribution Trust Accounts established by publicly financed candidates may only hold funds up to a pre-determined amount, the Trust Account Limit. The Ethics Commission may increase a publicly financed candidate's Trust Account Limit based on other contributions and spending in the candidate's race. A publicly financed candidate may deposit additional contributions in a separate account, called the Campaign Contingency Account, in anticipation of an increase in the Trust Account Limit.
3. **Electronic Filing:** Section 1.112 requires certain committees to file campaign finance statements electronically.
4. **Reporting During Signature Gathering:** Section 1.113 requires committees that are raising or spending funds to support or oppose a local initiative, recall or referendum petitions to disclose their activity during the signature-gathering period. Depending on the date that the signature gathering begins, each committee has its own unique filing

schedule.

5. **Use of Campaign Funds:** Section 1.122(b) restricts how a candidate committee may use campaign funds. Local candidate committees may not use their funds to support other candidates or ballot measures. Withdrawn, defeated and departed candidates may only return funds to their contributors or donate the funds to the City or to charity.
6. **Voluntary Expenditure Ceilings:** Section 1.128 provides that all candidates for City elective office may accept voluntary expenditure ceilings ("VECs"). Once accepted, the VEC restricts how much a candidate may spend in support of his or her own candidacy, subject to further adjustments by the Ethics Commission based on other contributions and spending in the race. The Voter Information Pamphlet published by the Department of Elections lists the candidates who have accepted a VEC.
7. **Amount of Voluntary Expenditure Ceilings:** Section 1.130 establishes the VECs for eligible candidates. For candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, and Treasurer, the VEC is \$229,000. For candidates for School Board and City College Board, the VEC is \$98,000.
8. **Lifting of Voluntary Expenditure Ceilings:** Section 1.134 provides that the Ethics Commission will lift a VEC if either a candidate who has refused to accept the VEC has received contributions or made expenditures in excess of the VEC or third-parties have paid for communications that support or oppose a candidate and those communications total more than the VEC.
9. **Pre-election Statements:** Section 1.135 establishes a schedule for the filing of pre-election campaign statements.
10. **Amount of Individual Expenditure Ceilings:** Section 1.140 lists the eligibility requirements for candidates seeking public financing. This section currently provides that supervisorial candidates must agree to an Individual Expenditure Ceiling ("IEC") of \$140,000, and that mayoral candidates must agree to an IEC of \$1,375,000.
11. **Disbursement of Public Financing Funds:** Section 1.144 addresses the disbursement of funds for publicly financed candidates. More than 60 days before the election, the Controller must disburse public funds to eligible candidates within 48 hours of notification by the Ethics Commission. Within 60 days of the election, the Controller must disburse funds within a shorter time-frame, 24 hours. Section 1.144 does not restrict the number of claims for public funds that a candidate may simultaneously submit.
12. **Audits:** Section 1.150(a) provides that the Ethics Commission will audit all candidate committees for publicly financed candidates.

13. **Supplemental Reporting in Publicly Financed Races:** Section 1.152 establishes supplemental reporting requirements for candidates and third parties in races with a publicly financed candidate. Competing candidates and third parties must report their activity to the Ethics Commission so that the Ethics Commission can adjust publicly financed candidates' IECs and provide publicly financed candidates with sufficient funds to remain competitive.
14. **Mass Mailings:** Section 1.161 establishes disclosure and filing requirements for mass mailings that identify candidates for City elective office.
15. **Electioneering Communications:** Section 1.161.5 establishes disclosure and filing requirements for electioneering communications, i.e., "issue ads" that identify candidates.
16. **Statute of Limitations:** Section 1.168(c)(3) establishes a statute of limitations of five years for administrative actions brought by the Ethics Commission.
17. **Maintaining Records:** Under state law, committees must maintain records for audit purposes. This ordinance does not explicitly require committees to retain particular records documenting the contents of filings required by CFRO.
18. **Subpoena authority:** Under the Charter, the Ethics Commission has the authority to subpoena witnesses and documents. CFRO does not mention the Ethics Commission's, or the Executive Director's, subpoena powers.

Amendments to Current Law

The proposed legislation would make a number of changes to CFRO, including:

1. **Definitions:** Amends section 1.104 to propose or refine the definitions of candidate, candidate committee, City elective office, controlled committee, election, general purpose committee, independent expenditure, itemized disclosure statement, mass mailing, matching contribution, measure, member communication, person, qualifying contribution, surplus funds, total supportive funds, trust account limit, unexpended public funds, and withdrawal. In general, the amendments seek to conform CFRO's definitions to the state law definitions for identical or similar terms.
2. **Trust Accounts and Contingency Accounts:** Amends section 1.108 to eliminate the requirement that the candidate committee provide the Ethics Commission with its bank account number. State law already requires candidate committees to provide that information on a statement of organization (FPPC Form 410). The amendments also clarify that elected officeholders may not open a separate bank account for the purpose of making officeholder expenses, and that a candidate committee may only deposit funds in a Campaign Contingency Account if the amount of funds in the Campaign

Contribution Trust Account has reached the Trust Account Limit.

3. **Electronic Filing:** Amends section 1.112 to differentiate between campaign finance statements required by state versus local law. Statements required by state law must be filed electronically and in paper; certain statements required by local law must only be filed electronically. The amendments also incorporate recent state law definitions of what constitutes a "local" committee. The amendments further authorize the Ethics Commission to require additional committees, beyond those currently set forth in the ordinance, to file electronically.
4. **Reporting During Signature Gathering:** Amends section 1.113 provide that each committee supporting or opposing local initiative, recall or referendum petitions must disclose its activity at uniform times each month during the signature-gathering period.
5. **Use of Campaign Funds:** Amends section 1.122(b) to clarify that local candidate committees are prohibited from making contributions to support or oppose state propositions. The amendments also provide that withdrawn, defeated, or departed candidates may use campaign funds to pay debts and other costs associated with closing a committee.
6. **Voluntary Expenditure Ceilings:** Amends section 1.128 to provide that only candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, School Board, and City College Board may accept a VEC. The Voter Information Pamphlet will no longer list candidates who have accepted a VEC; the Ethics Commission instead will maintain a website that lists those candidates. Candidates for the Board of Supervisors and Mayor may no longer accept VECs. If they participate in the public financing program, those candidates must accept IECs.
7. **Amount of Voluntary Expenditure Ceilings:** Amends section 1.130 to adjust the VECs for inflation. The VEC for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, and Treasurer will increase to \$243,000. The VEC for School Board and City College Board will increase to \$104,000.
8. **Lifting of Voluntary Expenditure Ceilings:** Amends section 1.134 to provide that if a candidate who has accepted the VEC actually spends more than the VEC – thus violating section 1.128 – the Ethics Commission will lift the VEC for competing candidates.
9. **Pre-election Statements:** Amends section 1.135 to provide that in even-numbered years, the schedule for the filing of pre-election statements shall be the same as the schedule established for such filings by the Fair Political Practices Commission. For odd-numbered years, committees shall continue to be subject to the current schedule set forth in CFRO.

10. **Amount of Individual Expenditure Ceilings:** Amends section 1.140 to adjust the IECs for inflation. The IEC for supervisorial candidates will increase to \$143,000, and the IEC for mayoral candidates will increase to \$1,475,000.
11. **Disbursement of Public Financing Funds:** Amends section 1.144 to provide that the Controller must disburse public funds within one business day only within the last fifteen days of an election, rather than the last sixty. The amendments also clarify that a candidate may not simultaneously submit multiple claims for public funds.
12. **Audits:** Amends section 1.150(a) to confirm that the Executive Director may initiate additional audits irrespective of whether the committees received public funds.
13. **Supplemental Reporting in Publicly Financed Races:** Amends section 1.152 to clarify the thresholds for third-party reporting operate on a per-candidate basis. The amendments also broaden the scope of supplemental reporting to include all communications that clearly identify a candidate, rather than relying on the third party's determination of whether the communications support or oppose a candidate.
14. **Mass Mailings:** Amends section 1.161 to provide that a committee is not subject to the mass mailing filing requirements if it is already filing disclosures regarding the same communication under another CFRO provision.
15. **Electioneering Communications:** Amends section 1.161.5 to provide that a committee is not subject to the electioneering communication filing requirements if it is already filing disclosures regarding the same communication under another CFRO provision. The amendments also eliminate an exception to the definition of "electioneering communication" to provide that committees' "expenditures" may be electioneering communications.
16. **Statute of Limitations:** Amends section 1.168(c)(3) to provide that the statute of limitations for administrative action by the Ethics Commission is four years. The amendment will conform the limitations period for CFRO violations to the limitations periods governing other ordinances within the Ethics Commission's jurisdiction.
17. **Maintaining Records:** Adds section 1.109, which provides that local committees must maintain records – for audit purposes – according to the standards set forth in state law. Section 1.109 also provides that committees must provide those records upon request by the Ethics Commission.
18. **Subpoena authority:** Adds section 1.171, which provides that the Ethics Commission – including its Executive Director – may issue subpoenas in furtherance of its duties under the Charter, including, but not limited to, audits.

FILE NO.

19. ***Renumbering and Reorganizing CFRO Provisions:*** Re-numbers section 1.134.5, addressing when and how the Ethics Commission adjusts IECs, as section 1.143. The new section 1.143 also incorporates inflation-adjusted IECs for mayoral and supervisorial candidates. The legislation also re-numbers section 1.158, authorizing the Ethics Commission to adopt implementing regulations, as section 1.175. The legislation also deletes section 1.160, which explicitly states that nothing in CFRO is intended to limit a candidate's fines or penalties imposed in other administrative or judicial proceedings. The amendments replicate the same language in section 1.170(g).

Background Information

The proposal amends Article 1, Section 1 of the Campaign & Governmental Conduct Code ("C&GCC"). The Campaign Finance Reform Ordinance, originally approved by the voters, expressly authorizes amendment by the Board of Supervisors only if:

- 1) the amendment furthers the purposes of the CFRO;
- 2) the amendment is submitted to the Ethics Commission and recommended by its members by a four-fifths vote;
- 3) the legislation is made available for public review for 30 days; and
- 4) the Board of Supervisors adopts the legislation by a two-thirds vote.

See C&GCC § 1.103.

AUG 05 2009

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[Campaign Finance Reform Ordinance amendments.]

Ordinance amending Article I, Chapter I of the Campaign & Governmental Conduct Code by amending sections 1.100, 1.104, 1.107, 1.108, 1.112, 1.113, 1.114, 1.118, 1.122, 1.128, 1.130, 1.134, 1.135, 1.136, 1.140, 1.142, 1.144, 1.146, 1.148, 1.150, 1.152, 1.156, 1.161, 1.161.5, 1.168, 1.170, deleting sections 1.134.5, 1.158, and 1.160, and adding sections 1.109, 1.143, 1.171, and 1.175 to refine and conform definitions; to eliminate and streamline reporting requirements; to authorize greater electronic filing; to adjust expenditure ceilings for inflation; to clarify the permissible uses of campaign funds; to provide that certain candidates are eligible to accept Voluntary Expenditure Ceilings; to set forth the instances in which the Ethics Commission will lift Voluntary Expenditure Ceilings; to modify how public funds are disbursed to eligible candidates; to clarify the requirements for third-party reporting; to amend the statute of limitations for administrative actions; and to impose record retention requirements on local committees.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~striketrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Campaign & Governmental Conduct Code is hereby amended by amending Sections 1.100, 1.104, 1.107, 1.108, 1.112, 1.113, 1.114, 1.118, 1.122, 1.128, 1.130, 1.134, 1.135, 1.136, 1.140, 1.142, 1.144, 1.146, 1.148, 1.150, 1.152, 1.156, 1.161, 1.161.5, 1.168, 1.170, to read as follows:

SEC. 1.100. PURPOSE AND INTENT.

1 (a) Huge sums of money» often are necessary to finance American election campaigns.
2 Inherent to the high cost of election campaigning is the problem of improper influence, real or
3 potential, exercised by campaign contributors over elected officials. In addition, this
4 fundraising distracts public officials seeking reelection from focusing upon important public
5 matters, encourages contributions which may have a corrupting influence, ~~and~~ gives
6 incumbents an unfair fundraising advantage over potential challengers, and provides
7 contributors with greater access to public officials than other members of the public. These
8 developments undermine the integrity of the governmental process, and the competitiveness
9 of campaigns. The amount of money raised by many candidates and committees supporting or
10 opposing candidates also erodes ~~and~~ public confidence in local officials by creating the appearance
11 that elected officials may be unduly influenced by contributors who support their campaigns or oppose
12 their opponents' campaigns.

13 (b) It is the purpose and intent of the People of the City and County of San Francisco in
14 enacting this Chapter to:

15 (1) Place realistic and enforceable limits on the amount individuals may contribute to
16 political campaigns in municipal elections and to provide full and fair enforcement of all the
17 provisions in this Chapter;

18 (2) Ensure that all individuals and interest groups in our city have a fair opportunity to
19 participate in elective and governmental processes;

20 (3) Create an incentive to limit overall expenditures in campaigns, thereby reducing the
21 pressure on candidates to raise large campaign war chests for defensive purposes beyond
22 the amount necessary to communicate reasonably with voters;

23 (4) Reduce the advantage of incumbents and thus encourage competition for elective
24 office;

1 (5) Allow candidates and officeholders to spend a smaller proportion of their time on
2 fundraising and a greater proportion of their time dealing with issues of importance to their
3 constituents' community;

4 (6) Ensure that serious candidates are able to raise enough money to communicate
5 their views and positions adequately to the public, thereby promoting public discussion of the
6 important issues involved in political campaigns;

7 (7) Limit contributions to candidates and committees, including committees that make
8 independent expenditures, to eliminate or reduce the appearance or reality that large
9 contributors may exert undue influence over elected officials;

10 (8) Assist voters in making informed electoral decisions and ensure compliance with
11 campaign contribution limits through the required filing of campaign statements detailing the
12 sources of campaign contributions and how those contributions have been expended;

13 (9) Make it easier for the public, the media and election officials to efficiently review and
14 compare campaign statements by requiring committees that meet certain financial thresholds
15 to file copies of their campaign statements on ~~computer diskettes or other~~ designated electronic
16 media;

17 (10) Help restore public trust in governmental and electoral institutions; and

18 (11) Help ensure the integrity of the election process by prohibiting campaign
19 advertisements that contain ~~knowing~~ false endorsements of current and former public officials,
20 candidates, political clubs, and organizations. Such false endorsements undermine the
21 integrity of the electoral process by misleading and confusing voters about the actual support
22 for or opposition to candidates or ballot measures and it is too burdensome for individual
23 voters, inundated with campaign messages, to verify the accuracy of such claims and for
24 persons whose positions are misrepresented to correct the misrepresentations close in time to
25 the election.

(c) This Chapter is enacted in accordance with the terms of Sections 5 and 7 of Article XI of the Constitution of the State of California and Section 1.101 of the Charter of the City and County of San Francisco.

SEC. 1.104. DEFINITIONS.

Whenever in this Chapter the following words or phrases are used, they shall mean:

(a) "Candidate" shall ~~mean any individual listed on the ballot for election to any City elective office or who otherwise has taken affirmative action to seek nomination or election to such office. The term "candidate" shall also mean the candidate's campaign committee~~ be defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq., but shall include only candidates for City elective office.

~~(b) "Candidate committee" shall mean a committee controlled by a candidate, and primarily formed to support that candidate's election for City elective office.~~

~~(b)~~ "Charitable organization" shall mean an entity exempt from taxation pursuant to Title 26, Section 501 of the United State Code.

~~(d)~~ "City elective office" shall mean the offices of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, Member of the Board of Education of the San Francisco Unified School District and Member of the Governing Board of the San Francisco Community College District. The Board of Supervisors ~~shall be deemed to consist~~ of eleven separate City elective offices, the San Francisco Community College District ~~shall be deemed to consist~~ of seven separate City elective offices, and the Board of Education of the San Francisco Unified School District ~~shall be deemed to consist~~ of seven separate City elective offices.

~~(e) "Code" shall mean the San Francisco Campaign and Governmental Conduct Code.~~

(~~df~~) "Committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq. of the State of California (commencing at Section 81000).

(~~eg~~) "Contribution" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq. of the State of California (commencing at Section 81000); provided, however, that "contribution" shall include loans of any kind or nature.

(~~h~~) "Controlled committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq.

(~~fi~~) "Election" shall mean any ~~primary~~, general, or special municipal election held in the City and County of San Francisco for City elective office or for a local measure, regardless of whether the election is conducted by district or Citywide.

(~~gi~~) "Enforcement authority" shall mean the District Attorney ~~of the City and County of San Francisco~~ for criminal enforcement, the City Attorney for civil enforcement, and the Ethics Commission for administrative enforcement. Nothing in this Chapter shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this Chapter under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

(~~hk~~) "Ethics Commission" shall mean the San Francisco Ethics Commission.

(~~il~~) "Executive Director" shall mean the Executive Director of the Ethics Commission, or the Executive Director's designee.

(~~m~~) "General purpose committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 et seq.

(~~n~~) "Independent expenditure" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 et seq. An expenditure is not considered independent and shall be treated as a contribution from the person making the expenditure to the candidate on

1 whose behalf or for whose benefit the expenditure is made, if the expenditure is made at the request,
2 suggestion, or direction of, or in cooperation, consultation, concert or coordination with, the candidate
3 on whose behalf, or for whose benefit, the expenditure is made.

4 (jg) "Individual Expenditure Ceiling" shall mean the expenditure ceiling established for
5 each individual candidate for Mayor or the Board of Supervisors who has been certified by the
6 Ethics Commission has certified as eligible to receive public funds under this Chapter.

7 (p) "Itemized disclosure statement" shall mean a form promulgated by the Ethics Commission
8 that provides a detailed description of the separate costs associated with a communication, including
9 but not limited to photography, design, production, printing, distribution, and postage.

10 (q) "Mass mailing" shall be defined as set forth in the California Political Reform Act,
11 California Government Code section 81000 et seq., provided that the mass mailing advocates for or
12 against one or more candidates for City elective office.

13 (kr) "Matching contribution" shall mean a contribution up to \$500.00, ~~that is made by an~~
14 individual, other than the candidate, who is a resident of San Francisco. Matching
15 contributions shall not include loans, contributions ~~that are~~ received more than 18 months
16 before the date of the election, qualifying contributions or contributions made by the candidate's
17 spouse, registered domestic partner or dependent child, immediate family or qualifying contributions,
18 and Matching contributions must also comply with all requirements of this Chapter. Matching
19 contributions under \$100.00 that are not made by written instrument must be accompanied by
20 written documentation ~~of sufficient to establish~~ the contributor's name and address. The Ethics
21 Commission shall set forth, by regulation, the types of documents sufficient to establish a contributor's
22 name and address for the purpose of this subsection.

23 (ls) "Measure" shall mean any City, San Francisco Unified School District or San
24 Francisco Community College District referendum, initiative or recall or ballot proposition,
25 whether or not it qualifies for the ballot that either has been placed on the ballot under the procedures

1 set forth in the Municipal Elections Code or the Charter or has been circulated for signatures in the
2 City and County.

3 (i) "Member communication" shall mean a communication made by an organization or its
4 committee for the publication, dissemination or communication to the organization's members,
5 employees or shareholders, or to the families of the organization's members, employees or
6 shareholders by newsletter, letter, flyer, e-mail or similar written or spoken material, that supports or
7 oppose a candidate or measure.

8 (mii) "Person" shall mean any individual, partnership, corporation, association, firm,
9 proprietorship, joint venture, syndicate, business trust, company, limited liability company,
10 committee, club or other organization or group of persons acting in concert, however
11 organized.

12 (ny) "Qualified campaign expenditure" for candidates ~~includes~~ shall mean all of the
13 following:

14 (1) Any expenditure made by a candidate, or by a committee controlled by the
15 candidate, for the purpose of influencing or attempting to influence the actions of the voters for
16 the election of the candidate to City elective office.

17 (2) A nonmonetary contribution provided to the candidate, officeholder or committee
18 controlled by the candidate.

19 (3) The total cost actually paid or incurred by the candidate or controlled committee of
20 the candidate for a slate mailing or other campaign literature produced or authorized by more
21 than one candidate.

22 (4) Expenses incurred, but for which payment has not yet been made.

23 (5) Expenses associated with complying with applicable laws, including but not limited
24 to the California Political Reform Act, California Government Code Section 81000, et seq., and
25 the provisions of this Chapter.

1 (6) "Qualified campaign expenditure" shall not include filing fees, expenses incurred in
2 connection with an administrative or judicial proceeding, payments for administrative, civil or
3 criminal fines, including late filing ~~fees~~ *fines*, costs incurred after the election that do not directly
4 affect the outcome of the election, including but not limited to utility bills, expenses associated
5 with an audit, and expenses related to preparing post-election campaign finance disclosure
6 reports as required by the California Political Reform Act, *California* Government Code
7 Section 81000, et seq., and the provisions of this Chapter, or for inaugural activities or
8 officeholder expenses.

9 (~~ew~~) "Qualifying contribution" shall mean a contribution of not less than \$10-~~00~~ and not
10 more than \$100-~~00~~ that is made by an individual who is a resident of San Francisco and that
11 complies with all requirements of this Chapter. Qualifying contributions shall not include loans,
12 contributions ~~that are~~ received more than 18 months before the date of the election or
13 contributions made by the candidate or the candidate's ~~immediate family spouse, registered~~
14 ~~domestic partner or dependent child~~. Qualifying contributions under \$100-~~00~~ that are not made by
15 written instrument must be accompanied by written documentation ~~of sufficient to establish~~ the
16 contributor's name and address. *The Ethics Commission shall set forth, by regulation, the types of*
17 *documents sufficient to establish a contributor's name and address for the purpose of this subsection.*

18 (~~px~~) "Recorded telephone message" shall mean a recorded audio message that
19 expressly supports or opposes a candidate for City elective office that is distributed by
20 telephone.

21 (~~qy~~) "Surplus funds" shall mean funds remaining in a candidate's campaign account at
22 the time the candidate leaves City elective office, or at the end of the post-election reporting
23 period following the defeat of the candidate for City elective office, whichever occurs last, ~~and~~
24 ~~funds remaining in the campaign account of a committee primarily formed to support or oppose a~~

1 *measure at the end of the post-election reporting period following the election at which the measure*
2 *appeared on the ballot.*

3 (~~zz~~) "Total Opposition Spending" shall mean the sum of any expenditures made or
4 expenses incurred by any person or persons for the purpose of making independent
5 expenditures, electioneering communications or member communications in opposition to a
6 specific candidate for Mayor or the Board of Supervisors.

7 (~~aa~~) "Total Supportive Funds" shall mean the sum of all contributions received by a
8 candidate committee supporting a candidate for Mayor or the Board of Supervisors, other than
9 any funds in the candidate's Campaign Contingency Account exceeding the candidate
10 committee's Trust Account Limit, plus the expenditures made or expenses incurred by any
11 person or persons for the purpose of making independent expenditures, electioneering
12 communications or member communications in support of that same candidate.

13 (~~bb~~) "Trust Account Limit;" shall mean the amount of funds in the Campaign
14 Contribution Trust Account of a candidate committee supporting a candidate for Mayor or the
15 Board of Supervisors whom ~~has been certified by~~ the Ethics Commission has certified as eligible
16 to receive public funds under this Chapter such that the expenditure of this amount would
17 cause the candidate to reach, but not exceed, the candidate's Individual Expenditure Ceiling.
18 The Trust Account Limit shall be reduced as the candidate spends money and shall be
19 increased when his or her Individual Expenditure Ceiling increases.

20 (~~cc~~) "Unexpended public funds" shall mean all funds remaining in the candidate committee's
21 account on the 30th day after the candidate controlling the committee is either elected or not elected to
22 office, regardless of the source of the funds, but shall not exceed the amount of public funds provided to
23 the candidate. Funds raised after this date are not unexpended funds.

24 (~~dd~~) "Voter" shall mean an individual registered to vote in San Francisco.
25

1 (cc) "Withdrawal" or "withdraw" shall mean, prior to an election, ending one's candidacy or
2 failing to qualify for an office for which a candidate has solicited or accepted contributions.

3 (vff) "Written instrument" shall mean, a check, credit card receipt, or record of electronic
4 transfer of funds.

5 SEC. 1.107. TRAINING FOR CANDIDATES AND TREASURERS.

6 (a) Training Requirements.

7 (1) Candidates. Every candidate for City elective office and ~~their~~ his or her treasurer~~s~~
8 shall attend a training program conducted or sponsored by the Ethics Commission within one
9 year prior to ~~each any~~ election at which the candidate's name will appear on the ballot.

10 (2) Treasurers. Every committee treasurer shall attend the next training program
11 conducted or sponsored by the Ethics Commission after the date the committee files either its
12 original statement of organization or an amendment to a statement of organization
13 ~~of a new treasurer.~~

14 (b) Exception. An individual who serves as the treasurer for more than one committee
15 is not ~~required~~ to attend a training required by Subsection (a) if that individual has attended
16 such a train. ~~within~~ within the previous 12 months.

17 (c) Definition. For the purposes of this section, "committee" shall mean any committee
18 that: (1) qualifies as committee pursuant to subdivision (a) of Section 82013 of the California
19 Government Code ~~as incorporated into this Chapter by Section 1.104;~~ and (2) is required to file its
20 semi-annual campaign statements with the Ethics Commission.

21 SEC. 1.108. CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST
22 ACCOUNTS AND CAMPAIGN CONTINGENCY ACCOUNTS.

23 (a) CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS.

24 (1) Establishment of Account. Each treasurer for a candidate committee shall establish a
25 Campaign Contribution Trust Account for the candidate committee at an office of a bank

1 located in the City and County of San Francisco, ~~the account number and branch identification of~~
2 ~~which shall be filed with the Ethics Commission within ten days of the establishment of the account.~~ All
3 ~~of the~~ expenditures by the candidate committee for the City elective office sought shall be made
4 from that account.

5 (2) Prohibition on Multiple Officeholder Accounts. All funds, services or in-kind
6 contributions received by a candidate committee ~~City elective officer, or by any person or committee~~
7 ~~on behalf of a City elective officer,~~ for expenses incurred directly in connection with carrying out
8 the candidate's usual and necessary duties of holding office shall be deposited, credited or
9 otherwise reported to the officer-candidate committee's eCampaign eContribution ~~Trust~~
10 ~~a~~ Account, ~~and Such contributions~~ shall be subject to the contribution limits in Section 1.114 of
11 this Chapter. An elected officeholder may not establish or control any other committees or accounts
12 for the purpose of making officeholder expenses. Nothing in this Section shall prohibit an officer
13 from spending personal funds on official ~~or related business~~ activities.

14 (3) Account Limits. A candidate committee controlled by a candidate for Mayor or the
15 Board of Supervisors ~~whom has been certified by~~ the Ethics Commission has certified as eligible
16 to receive public funds under this Chapter shall not, at any time before the date of the election for
17 which the candidate has been certified, have an amount of funds greater than the candidate
18 committee's Trust Account Limit in its ~~his or her~~ Campaign Contribution Trust Account, unless
19 those contributions are immediately transferred into the candidate committee's Campaign Contingency
20 Account.

21 (b) CAMPAIGN CONTINGENCY ACCOUNTS FOR CANDIDATE COMMITTEES FOR
22 MAYOR AND THE BOARD OF SUPERVISORS.

23 (1) Notwithstanding any other section of this Code, including Subsection (a)(2), a
24 candidate committee controlled by a candidate for Mayor or the Board of Supervisors ~~whom has~~
25 been certified by the Ethics Commission has certified as eligible to receive public funds under

1 this Chapter may maintain a Campaign Contingency Account separate from ~~his or her~~ its
2 Campaign Contribution Trust Account into which ~~he or she~~ it may deposit money contributions
3 in anticipation ~~that the Ethics Commission will raise of~~ the candidate's Individual Expenditure
4 Ceiling ~~being raised~~. All money contributions deposited into this account shall be reported as if
5 it were deposited into the candidate's committee's Campaign Contribution Trust Account.

6 (2) No candidate committee may deposit any funds into its Campaign Contingency Account if
7 the amount of funds in the candidate committee's Campaign Contribution Trust Account is less than the
8 candidate committee's Trust Account Limit.

9 (23) No expenditures shall be made from a Campaign Contingency Account
10 established pursuant to this section. Funds may be transferred ~~between a~~ from the candidate
11 committee's Campaign Contingency Account ~~and to~~ the candidate committee's Campaign
12 Contribution Trust Account, provided that the amount of funds in the ~~candidate's~~ Campaign
13 Contribution Trust Account does not exceed the candidate committee's Trust Account Limit. All
14 funds that qualify as matching contributions and are transferred from the Campaign
15 Contingency Account to the Campaign Contribution Trust Account shall be eligible to be
16 matched with public funds in accordance with the procedures set forth in this Chapter. Within
17 ten days after the date of the election, the candidate committee shall turn over all funds in the
18 Campaign Contingency Account to the Election Campaign Fund.

19 SEC. 1.112. ELECTRONIC CAMPAIGN DISCLOSURE.

20 (a) FILING ELECTRONIC CAMPAIGN STATEMENTS.

21 (1) Filing Electronic Copies of Campaign Statements Required by State Law. Whenever
22 any committee that meets the requirements of Subsection (b) of this Section is required by ~~this~~
23 ~~Chapter or~~ the California Political Reform Act, ~~California~~ Government Code Section 81000 et
24 seq. ~~to~~ file a campaign disclosure statement or report with the Ethics Commission, the
25 committee shall file at the same time a copy of the statement or report in an electronic format

with the Ethics Commission, provided the Ethics Commission has prescribed the format at least 60 days before the statement or report is due to be filed.

(2) Filing Electronic Copies of Campaign Statements Required by Local Law. Whenever any committee is required to file a campaign disclosure statement or report with the Ethics Commission under this Chapter, the committee shall file the statement or report in an electronic format, provided the Ethics Commission has prescribed the format at least 60 days before the statement or report is due to be filed.

~~(23)~~ Continuous Filing of Electronic Statements. Once a ~~C~~committee is subject to the electronic filing requirements imposed by this Section, the ~~C~~committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the ~~C~~committee ~~files a termination statement-terminates~~ pursuant to this Chapter and the California Political Reform Act, California Government Code Section 81000 et seq.;

~~(34)~~ Disclosure of Expenditure Dates. All electronic statements filed under this Section shall include the date any expenditure required to be reported on the statement was incurred, provided that the Ethics Commission's forms accommodate the reporting of such dates.

(b) COMMITTEES SUBJECT TO ELECTRONIC FILING REQUIREMENTS.

(1) A ~~C~~committee is subject to this Section if the Committee must file electronic copies of statements and reports if it receives contributions or makes expenditures that total \$5,000 or more in a calendar year and is: (1) required to file a statement of organization under this Chapter and the California Political Reform Act (Government Code Sections 81000 et seq.); and (2) is controlled by a candidate, or is formed or exists primarily to support or oppose a candidate, or is formed or exists primarily to support or oppose a ballot measure which is being voted on only in the City and County, or is a general purpose Committee active only in the City and County; and (3) receives contributions, or makes independent expenditures, totaling \$5,000.00 or more in a calendar year.

1 (A) a committee controlled by a candidate for City elective office;

2 (B) a committee primarily formed to support or oppose a local measure or a candidate for City
3 elective office; or

4 (C) a general purpose recipient, independent expenditure or major donor committee that
5 qualifies, under state law, as a city or county general purpose committee in the City and County of San
6 Francisco.

7 (2) The Ethics Commission may require additional committees not listed in this Section to file
8 electronically through regulations adopted at least 60 days before the statement or report is due to be
9 filed.

10 SEC. 1.113. DISCLOSURE REQUIREMENTS DURING SIGNATURE GATHERING
11 PERIODS FOR INITIATIVES, REFERENDA AND RECALLS.

12 (a) In order to ensure that any person interested in the finances of
13 requirements of this Chapter and state law, any committee that is raising or spending funds to
14 support or oppose a measure during the circulation of the measure shall file supplemental
15 campaign statements with the Ethics Commission under this Section. Such committees shall file ~~their~~
16 financial disclosure documents on dates that are within the time period in which signatures are
17 gathered supplemental campaign statements on the 5th and 20th day of every month in which a
18 measure is circulating in the City and County for signatures, and on the 5th day of the month following
19 the end of the circulation period if necessary to disclose contributions received or expenditures made
20 during the signature-gathering period. Each such statement shall disclose contributions received and
21 expenditures made between the end of the reporting period for the last campaign statement filed by the
22 committee and the period ending five calendar days prior to the date of filing.

23 (b) For initiatives and recalls, campaign disclosure statements shall be filed on the 15th day of
24 the signature gathering period covering days 1—10, on the 30th day covering days 11—25, and every

30 days thereafter for the 30-day period ending five days earlier through the end of the signature-gathering period.

(c) For referenda, which have a 30-day signature gathering period, campaign disclosure statements shall be filed on the 10th day of the period covering days 1–5, on the 25th day of the period covering days 6–20, and by the 60th day after the end of the period covering days 21–30.

(d) Otherwise, campaign statements shall be completed and filed as specified in this Chapter and state law.

SEC. 1.114. CONTRIBUTION LIMITS.

(a) LIMITS ON CONTRIBUTIONS TO CANDIDATES.

(1) Per Candidate Limit. No person other than a candidate shall make, and no ~~candidate~~ committee-campaign treasurer for a candidate committee shall solicit or accept, any contribution which will cause the total amount contributed by such person to such candidate committee in an election to exceed \$500.00.

(2) Overall Limit. No person shall make any contribution which will cause the total amount contributed by such person to all candidate committees in an election to exceed \$500.00 multiplied by the number of City elective offices to be voted on at that election.

(b) LIMITS ON CONTRIBUTIONS FROM CORPORATIONS. No corporation organized pursuant to the laws of the State of California, the United States, or any other state, territory, or foreign country, whether for profit or not, shall make a contribution to a candidate committee ~~for City elective office~~, provided that nothing in this subsection shall prohibit such a corporation from establishing, administering, and soliciting contributions to a separate segregated fund to be utilized for political purposes by the corporation, provided that the separate segregated fund complies with the requirements of ~~F~~federal ~~L~~law including sections 432(e) and 441b of Title 2 of the United States Code, ~~including~~ and any subsequent amendments to those sections.

1 (c) LIMITS ON CONTRIBUTIONS TO COMMITTEES.

2 (1) Per Committee Limit. No person shall make, and no committee treasurer shall
3 solicit or accept, any contribution which will cause the total amount contributed by such
4 person to the committee to exceed \$500-~~00~~ per calendar year.

5 (2) Overall Limit. No person shall make, and no committee treasurer shall solicit or
6 accept, any contribution which will cause the total amount contributed by such person to all
7 committees to exceed \$3,000-~~00~~ per calendar year.

8 (3) Definitions. For purposes of this Subsection, "committee" shall mean any committee
9 making expenditures to support or oppose a candidate, but shall not include candidate-
10 ~~campaign~~ committees.

11 (d) AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.

12 (1) General Rule. For purposes of the contribution limits imposed by this Section and
13 Section 1.120 the contributions of an entity whose contributions are directed and controlled by
14 any individual shall be aggregated with contributions made by that individual and any other
15 entity whose contributions are directed and controlled by the same individual.

16 (2) Multiple Entity Contributions Controlled by the Same Persons. If two or more
17 entities make contributions that are directed and controlled by a majority of the same persons,
18 the contributions of those entities shall be aggregated.

19 (3) Majority-Owned Entities. Contributions made by entities that are majority-owned by
20 any person shall be aggregated with the contributions of the majority owner and all other
21 entities majority-owned by that person, unless those entities act independently in their
22 decisions to make contributions.

23 (4) Definition. For purposes of this Section, the term "entity" means any person other
24 than an individual and "majority-owned" means a direct or indirect ownership of more than 50
25 percent.

1 *(5) Effective Date. This Subsection shall take effect January 1, 2004.*

2 (e) CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of
3 contributions received from a contributor is \$100-~~00~~ or more, the committee shall not deposit
4 any contribution that causes the total amount contributed by a person to equal or exceed
5 \$100-~~00~~ unless the committee has the following information: the contributor's full name; the
6 contributor's street address; the contributor's occupation; and the name of the contributor's
7 employer or, if the contributor is self-employed, the name of the contributor's business. A
8 committee will be deemed not to have had the required contributor information at the time the
9 contribution was deposited if the required contributor information is not reported on the first
10 campaign statement on which the contribution is required to be reported.

11 (f) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other penalty,
12 each committee that receives a contribution which exceeds the limits imposed by this Section
13 or which does not comply with the requirements of this Section shall pay promptly the amount
14 received or deposited in excess of the amount permitted by this Section to the City and
15 County of San Francisco and deliver the payment to the Ethics Commission for deposit in the
16 General Fund of the City and County; provided that the Ethics Commission may provide for
17 the waiver or reduction of the forfeiture.

18 (g) RETURN-RECEIPT OF CONTRIBUTIONS. A contribution to a candidate committee or
19 committee making expenditures to support or oppose a candidate shall not be considered ~~to~~
20 ~~be~~-received if it is not cashed, negotiated, or deposited and in addition it is returned to the
21 donor before the closing date of the campaign statement on which the contribution would
22 otherwise be reported, except that a contribution to a candidate committee or committee
23 making expenditures to support or oppose a candidate made before an election at which the
24 candidate is to be voted on but after the closing date of the last campaign statement required
25 to be filed before the election shall not be considered to be deemed received if it is not

1 cashed, negotiated or deposited and is returned to the contributor within 48 hours of receipt.
2 For all committees not addressed by this section, the determination of when contributions are
3 considered to be received shall be made in accordance with the California Political Reform Act,
4 California Government Code Section 81000, et seq.

5 SEC. 1.118. PAYMENT OF ACCRUED EXPENSES.

6 (a) A candidate committee ~~who~~that accepts goods or services on credit shall pay for
7 such accrued expenses ~~in full no later than 180 calendar days after receipt of a bill or invoice and~~
8 ~~in no event~~ later than 180 calendar days after the last calendar day of the month in which the
9 goods were delivered or the services were rendered, unless it is clear from the circumstances
10 that the failure to pay is reasonably based on a good faith dispute. For purposes of this
11 Subsection, a good faith dispute shall be rebuttably presumed if the candidate committee
12 produces the following:

13 (1) Evidence that the candidate committee protested the payment of a bill no later than
14 30 calendar days after the last calendar day of the month in which the goods were delivered
15 or the services were rendered; and

16 (2) Evidence that the protest was based on the time of delivery, quality or quantity of
17 goods delivered or services rendered or the price of the goods delivered or the services
18 provided.

19 (b) The provisions of Subsection (a) do not apply to debt owed to a financial institution
20 for an outstanding credit card balance.

21 (c) Each and every calendar day any accrued expense remains partially or wholly
22 unpaid after the time periods set forth in Subsection (a) constitutes a separate violation.

23 SEC. 1.122. SOLICITATION OR ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS--
24 LIMITATIONS.

1 (a) DECLARATION OF INTENT REQUIRED. No ~~intended candidate for any City elective~~
2 ~~office, and no committee acting on behalf of a candidate or candidate committee;~~ shall solicit or
3 accept, or cause to be solicited or accepted, any contribution unless and until ~~said the~~
4 candidate ~~shall have~~ filed a declaration of intention to become a candidate for a specific City
5 elective office with the Department of Elections on a form ~~to be~~ prescribed by the Director of
6 Elections.

7 No person shall file a declaration of intention to become a candidate for more than one
8 City elective office. ~~For the purposes of this Section a committee acting on behalf of a candidate need~~
9 ~~not be controlled by or acting under the authorization of the candidate.~~

10 (b) USE OF CAMPAIGN FUNDS.

11 (i1) ~~General~~ GENERAL. Except as otherwise provided in this Chapter, funds in a
12 candidate ~~committee's~~ campaign account may be used only on behalf of the candidacy for the
13 office specified in the candidate's declaration of intention filed under Subsection (a) or for
14 expenses associated with holding that office, provided that such expenditures are reasonably
15 related to a legislative, governmental, or political purpose. Contributions solicited or accepted
16 under this Section for one ~~individual candidate~~ shall not be expended for the candidacy of any
17 other ~~individual candidate for local, state or federal office, or~~ in support of or opposition to any
18 measure ~~or in support of or opposition to any state ballot proposition,~~ or be donated to a charitable
19 organization. Nothing in this section shall prohibit a candidate committee for a candidate in a
20 ranked choice election from expending funds to support the ranking of another candidate if the
21 primary purpose of the expenditure is to further the candidate's own campaign.

22 (ii2) ~~Withdrawal from candidacy~~ WITHDRAWAL FROM CANDIDACY. ~~If a candidate has~~
23 ~~withdrawn his or her candidacy, campaign funds held by that candidate's committee's Campaign~~
24 ~~Contribution Trust Account an individual who ceases to be a candidate or fails to qualify for an office~~
25 ~~for which contributions have been solicited or accepted shall be:~~

(A) returned on a "last in, first out" basis to those persons who have made said contributions;

(B) donated to the City and County of San Francisco; ~~or~~

(C) donated to a charitable organization;

(D) used to pay outstanding campaign debts or accrued expenses;

(E) used to pay expenses associated with terminating the committee, such as bookkeeping, legal fees, preparation of campaign statements, and audits; or

(F) used for other permissible purposes established by the Ethics Commission by regulation.

(e3) SURPLUS FUNDS- CANDIDATES DEFEATED OR DEPARTED FROM ELECTED OFFICE. Surplus funds held by a candidate or committee shall be: If a candidate has been defeated in an election or has departed from City elective office, campaign funds held by that candidate's committee's Campaign Contribution Trust Account shall be:

(iA) Returned on a "last in, first out" basis to those persons who have made said contributions;

(iiB) Donated to a charitable organization; ~~or~~

(iiiC) Donated to the City and County of San Francisco;

(D) used to pay outstanding campaign debts or accrued expenses;

(E) used to pay expenses associated with terminating the committee, such as bookkeeping, legal fees, preparation of campaign statements, and audits; or

(F) used for other permissible purposes established by the Ethics Commission by regulation.

(dC) TRANSFER OF FUNDS. Subject to the restrictions set forth in Subsection (b), At any time, funds held in a candidate committee's eCampaign Contribution Trust Account may be transferred to any legally constituted committee established by or on behalf of the candidate under the Government Code of the State of California (commencing at Section 81000) California Political Reform Act, California Government Code section 81000 et seq. Contributions transferred

under this subsection shall be attributed to specific contributors using a "first in, first out" or "last in, first out" accounting method.

SEC. 1.128. ACCEPTANCE OR REJECTION OF VOLUNTARY EXPENDITURE CEILINGS.

(a) Candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District may accept the applicable voluntary expenditure ceiling. Candidates for the Board of Supervisors or Mayor may not accept a voluntary expenditure ceiling.

(ab) All candidates for City elective office To accept the applicable voluntary expenditure ceiling, a candidate must file a statement with the Ethics Commission indicating whether they accepting or do not accept the applicable voluntary expenditure ceiling. Theis candidate statement, which is a public document, shall be filed this statement no later than the deadline for filing nomination papers with the Department of Elections, and may not be withdrawn after such deadline. A candidate may not withdraw the statement accepting the voluntary expenditure ceiling after filing the statement. The form may not be filed prior to June 1 of an election occurring in November or 120 days before an election held at any other time, and once filed may not be withdrawn. A candidate may not accept or reject the applicable expenditure ceiling under this Section if the applicable expenditure ceiling has already been lifted. A candidate may not file the statement accepting the applicable voluntary expenditure ceiling if the Ethics Commission has lifted the voluntary expenditure ceiling under Section 1.134 of this Chapter.

The Director of Elections shall cause to be published in the Voter Information Pamphlet, on the same page as appears the candidate's statement of qualifications, a notice informing voters whether the candidate has accepted the voluntary expenditure ceiling. For candidates who have accepted the voluntary expenditure ceiling, the notice shall state: "The above candidate has accepted the City's

1 ~~voluntary spending limit." For candidates who have not accepted the voluntary expenditure ceiling, the~~
2 ~~notice shall state: "The above candidate has NOT accepted the City's voluntary spending limit." If a~~
3 ~~candidate was precluded from accepting or rejecting the limits because the expenditure ceiling for a~~
4 ~~particular race was lifted under Section 1.134 of this Chapter before the candidate filed the statement~~
5 ~~required by this Section, the notice for that candidate shall state "The voluntary spending limit was~~
6 ~~lifted before this candidate decided whether to accept or not accept the limit." The notice shall be~~
7 ~~printed in the same font size and type as the candidate's statement of qualifications. Nothing in this~~
8 ~~subsection shall prevent a candidate from participating in a public financing program authorized by~~
9 ~~this Chapter.~~

10 (c) The Ethics Commission shall maintain, on its website, a list of the candidates who have
11 accepted the voluntary expenditure ceiling. If the Ethics Commission has lifted a voluntary expenditure
12 ceiling for a particular race under Section 1.134 of this Chapter, the Ethics Commission shall instead
13 maintain a list of the candidates who have accepted, but are no longer subject to the voluntary
14 expenditure ceiling in that race.

15 (hd) Any candidate who files a statement pursuant to this Section accepting ~~has accepted~~ the
16 applicable voluntary expenditure ceiling and makes qualified campaign expenditures in excess
17 of the voluntary expenditure ceiling, at a time when the Ethics Commission has not lifted the
18 applicable voluntary expenditure ceiling ~~has not been lifted~~, is subject to the penalties in Section
19 1.170 for violation of this Chapter.

20 SEC. 1.130. AMOUNT OF VOLUNTARY EXPENDITURE CEILINGS.

21 (a) Any candidate for Assessor, Public Defender, City Attorney, District Attorney,
22 Treasurer, or Sheriff who agrees to accept voluntary expenditure ceilings shall not make total
23 qualified campaign expenditures exceeding \$~~229,000.00~~243,000, unless the Ethics Commission
24 has lifted the voluntary expenditure ceiling pursuant to Section 1.134 of this Chapter.

1 ~~(b) Any candidate for Mayor who agrees to expenditure ceilings shall not make total qualified~~
2 ~~campaign expenditures exceeding \$724,000.00.~~

3 ~~(c) Any candidate for the Board of Supervisors who agrees to expenditure ceilings shall not~~
4 ~~make total qualified campaign expenditures exceeding \$140,000.00.~~

5 ~~(db) Any candidate for the Board of Education of the San Francisco Unified School~~
6 ~~District or the Governing Board of the San Francisco Community College District who agrees~~
7 ~~to accept voluntary expenditure ceilings shall not make total qualified campaign expenditures~~
8 ~~exceeding \$98,000.00 104,000, unless the Ethics Commission has lifted the voluntary expenditure~~
9 ~~ceiling pursuant to Section 1.134 of this Chapter.~~

10 ~~(ec) The Ethics Commission is authorized to adjust annually by regulation the voluntary~~
11 ~~expenditure ceilings imposed by this Section to reflect the change in the California Consumer~~
12 ~~Price Index for that year, provided that such adjustments shall be rounded off to the nearest \$1,000.~~

13 SEC. 1.134. LIFTING OF VOLUNTARY EXPENDITURE CEILINGS LIFTED;
14 SUPPLEMENTAL REPORTING IN ELECTIONS FOR ASSESSOR, PUBLIC DEFENDER, CITY
15 ATTORNEY, DISTRICT ATTORNEY, TREASURER, SHERIFF, THE BOARD OF EDUCATION OF
16 THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT, OR THE GOVERNING BOARD OF THE SAN
17 FRANCISCO COMMUNITY COLLEGE DISTRICT.

18 This Section shall apply only if at least one candidate for the City elective office has
19 ~~filed a statement with the Ethics Commission pursuant to Section 1.128 indicating acceptance of~~
20 ~~accepted the applicable voluntary expenditure limits ceiling, and the Ethics Commission has not~~
21 ~~lifted applicable that voluntary expenditure limit ceiling has not already been lifted. This Section~~
22 ~~applies only to candidates for Assessor, Public Defender, City Attorney, District Attorney, Treasurer,~~
23 ~~Sheriff, the Board of Education of the San Francisco Unified School District, or the Governing Board~~
24 ~~of the San Francisco Community College District.~~

25 ~~(a) The voluntary expenditure ceiling shall no longer be binding on a candidate:~~

1 (1) If a candidate seeking election to the same City elective office, who has filed a statement
2 under Section 1.128 declining~~declined~~ to accept the voluntary expenditure ceiling, receives
3 contributions or makes qualified campaign expenditures in excess of 100 percent of the
4 applicable voluntary expenditure ceiling, ~~or~~

5 (2) if a person or persons make expenditures or payments, or incur expenses for the
6 purpose of making independent expenditures, electioneering communications or member
7 communications in support of or in opposition to a candidate that total more than 100 percent of
8 the applicable voluntary expenditure ceiling, and those expenditures or communications clearly
9 identify a candidate seeking election to the same City elective office, or

10 (3) if a candidate seeking election to the same City elective office, who has accepted the
11 voluntary expenditure ceiling, makes qualified campaign expenditures in excess of 100 percent of the
12 voluntary expenditure ceiling, the applicable expenditure limit voluntary expenditure ceiling shall no
13 longer be binding on any candidate seeking election to the same City elective office. This subsection
14 shall not apply to a candidate for Mayor or the Board of Supervisors who has been certified by the
15 Ethics Commission as eligible to receive public funds under this Chapter and is therefore subject to an
16 Individual Expenditure Ceiling.

17 (b) Any candidate ~~committee that who has not accepted the voluntary expenditure ceiling and~~
18 ~~who~~ receives contributions, makes qualified campaign expenditures, incurs expenses or has
19 funds in ~~his~~ its eCampaign Contribution ~~Trust~~ Account that ~~exceed~~ total more than 100 percent
20 of the applicable voluntary expenditure ceiling shall, within 24 hours of exceeding 100 percent
21 of the applicable voluntary expenditure ceiling, file a statement with the Ethics Commission, on
22 forms to be provided by the Ethics Commission, stating that fact and any additional
23 information required by the Ethics Commission. ~~Within 24 hours after receiving such notice, the~~
24 ~~Ethics Commission shall inform every other candidate for that office that the expenditure ceiling has~~
25 ~~been lifted.~~

(c) Any person ~~other than a candidate committee who that~~ makes expenditures or payments, or incurs expenses for the purpose of ~~making-distributing~~ independent expenditures, electioneering communications or member communications ~~in support of or in opposition to that~~ clearly identify any candidate in an amount ~~of that in the aggregate equals or exceeds \$5,000-00 or more per candidate~~ shall, within 24 hours of reaching ~~or exceeding~~ this threshold, file a statement with the Ethics Commission, ~~on forms to be provided by the Ethics Commission.~~ The statement shall include a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any additional information stating that fact and any additional information required by the Ethics Commission.

Thereafter, until ~~such time as the Ethics Commission lifts the~~ applicable voluntary expenditure ceiling ~~is lifted~~, any such person shall file a supplemental statement with the Ethics Commission each time the ~~committee person~~ makes expenditures ~~or payments or incurs expenses~~ for the purpose of ~~making-distributing~~ independent expenditures, electioneering communications or member communications ~~or incurs expenses in support of or in opposition that~~ clearly identify ~~to~~ any candidate ~~in an amount that in the aggregate equals or exceeds of an~~ additional \$5,000-~~00~~ per candidate. The supplemental statements shall be filed within 24 hours of reaching ~~or exceeding these spending this~~ threshold, ~~and shall include a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any additional information required by the Ethics Commission. This subsection shall not apply to any expenditures, payments, or expenses incurred for the purpose of making independent expenditures, electioneering communications or member communications in support of or in opposition to any candidate for Mayor or the Board of Supervisors if the Ethics Commission has certified that at least one candidate for Mayor or the Board of Supervisors is eligible to receive public funds under this Chapter.~~

1 (d) Within one business day after receiving a notice indicating that the thresholds in subsection
2 (a) have been met, the Ethics Commission shall inform every candidate in the same race that the
3 expenditure ceiling has been lifted.

4 SEC. 1.135. SUPPLEMENTAL ~~REPORTING~~ PRE-ELECTION STATEMENTS.

5 (a) Supplemental Preelection Statements. In addition to the campaign disclosure
6 requirements imposed by the California Political Reform Act and other provisions of this
7 Chapter, all San Francisco general purpose committees shall file preelection statements
8 before any election held in the City and County of San Francisco at which a candidate for City
9 elective office or City measure is on the ballot, if the committee makes contributions or
10 independent expenditures totaling ~~five hundred dollars (\$500.00)~~ or more during the period
11 covered by the preelection statement.

12 (b) Time for Filing Supplemental Preelection Statements. In even-numbered years,
13 Preelection statements required by this Section shall be filed pursuant to the preelection
14 statement filing schedule established by the Fair Political Practices Commission for county general
15 purpose recipient committees. In odd-numbered years, the filing schedule is as follows:

16 (1) For the period ending 45 days before the election, the statement shall be filed no
17 later than 40 days before the election;

18 (2) For the period ending 17 days before the election, the statement shall be filed no
19 later than 12 days before the election.

20 (c) The Ethics Commission may require that these statements be filed electronically.

21 SEC. 1.136. PUBLIC FINANCING OF CANDIDATES FOR THE BOARD OF
22 SUPERVISORS OR MAYOR.

23 Candidates for the Board of Supervisors or Mayor who ~~are certified by~~ the Ethics
24 Commission certifies as eligible to receive public financing of their election campaigns, and
25 who comply with the applicable conditions and restrictions specified in Section 1.140 of this

Chapter, may receive public funds as provided in this Chapter to defray the costs of their election campaigns.

SEC. 1.140. ELIGIBILITY TO RECEIVE PUBLIC FINANCING.

(a) REQUIREMENTS FOR ALL CANDIDATES. To be eligible to receive public financing of campaign expenses under this Chapter, ~~##~~ candidate must:

(1) Have filed a statement indicating that he or she intends to participate in the public financing program under Section 1.142 of this Chapter.

(2) Agree to the following conditions:

(A) The candidate bears the burden of providing that each contribution the candidate relies upon to establish eligibility is a qualifying contribution;

(B) The candidate bears the burden of proving that expenditures made with public funds provided under this Chapter comply with Section 1.148 of this Chapter;

(C) The candidate will not make any payments to a contractor or vendor in return for the contractor or vendor making a campaign contribution to the candidate or make more than a total of 50 payments, other than the return of a contribution, to contractors or vendor that have made contributions to the candidate;

(D) Notwithstanding Sections 1.114 and 1.116, the candidate shall not loan or donate, in total, more than \$~~2~~5,000-~~00~~ of his or her own money to the campaign;

(E) The candidate shall not accept any loans to his or her campaign with the exception of a candidate's loan to his or her own campaign as permitted by this Section; and

(F) The candidate shall agree to participate in at least three ~~(3)~~ debates with the candidate's opponents.

(3) Have paid any outstanding late fines or penalties, owed to the City by the candidate or any of the candidate's previous campaign committees, which were imposed for violations of ~~Chapters 1 through 5 of this Article.~~ Code or the campaign finance provisions of the California

1 Political Reform Act (Government Code Sections 84100– 85704); ~~Chapter 1 of Article II of this~~
2 ~~Code or Chapters 1 or 2 of Article III of this Code~~, provided that the Ethics Commission had
3 notified the candidate of such fines or penalties by the time of certification.

4 (4) Have filed any outstanding forms, owed to the City by the candidate or any of the
5 candidate's previous campaign committees, which were required to be filed pursuant to
6 ~~Chapters 1 through 5 of this Article, Code or~~ the campaign finance provisions of the Political
7 Reform Act (Government Code Sections 84100– 85704); ~~or Chapter 1, Article III of this Code~~,
8 provided that the Ethics Commission had notified the candidate of such outstanding forms by
9 the time of certification.

10 (5) Have no finding by a court within the prior five years that the candidate knowingly,
11 willfully, or intentionally violated ~~Chapters 1 through 4 any Section of this Article Code~~ or the
12 campaign finance provisions of this California Political Reform Act (Government Code
13 Sections 84100– 85704). For purposes of this Section, a plea of nolo contendere ~~shall be~~
14 ~~treated the same as constitutes~~ a finding by a court of a willful violation.

15 (b) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR THE BOARD OF
16 SUPERVISORS. To be eligible to receive public financing of campaign expenses under this
17 Chapter, a candidate for the Board of Supervisors must:

18 (1) Be seeking election to the Board of Supervisors and be eligible to hold the office
19 sought;

20 (2) Have a candidate committee that has received at least \$5,000.00 in qualifying
21 contributions from at least 75 contributors before the 70th day before the election;

22 (3) Be opposed by another candidate who has either established eligibility to receive
23 public financing, or whose candidate committee has received contributions or made expenditures
24 which in the aggregate equal or exceed \$5,000.00; and

(4) Agree that ~~the his or her~~ candidate committee will not ~~spend on the candidate's campaign~~ make qualified campaign expenditures that total more than the candidate's Individual Expenditure Ceiling of ~~\$143,000~~\$140,000.00, or as adjusted under Section ~~1-134.51~~1.143 of this Chapter.

(c) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR MAYOR. To be eligible to receive public financing of campaign expenses under this Chapter, a candidate for Mayor must:

(1) Be seeking election to the office of Mayor and be eligible to hold the office sought;

(2) Have a candidate committee that has received at least \$25,000-~~00~~ in qualifying contributions from at least 250 contributors by the 70th day before the election.

(3) Be opposed by another candidate who has either established eligibility to receive public financing, or whose candidate committee has received contributions or made expenditures that in the aggregate equal or exceed \$50,000-~~00~~; and

(4) Agree that ~~the his or her~~ candidate committee will not ~~spend on the candidate's campaign~~ make qualified campaign expenditures that total more than the candidate's Individual Expenditure Ceiling of ~~\$1,475,000~~\$1,375,000.00, or as adjusted under Section ~~1-134.51~~1.143 of this Chapter.

(d) ADJUSTMENT OF EXPENDITURE LIMITS AND THRESHOLDS. ~~Whenever the Ethics Commission pursuant to Section 1-130 adjusts the voluntary expenditure ceilings to reflect changes in the California Consumer Price Index,~~ The Ethics Commission is authorized to adjust:

(1) The figures in Subsections (b)(4) and (c)(4) to ~~match the adjusted voluntary expenditure ceilings in Section 1-130~~ reflect changes in the California Consumer Price Index, provided that such adjustments shall be rounded off to the nearest \$1,000 for candidates for the Board of Supervisors and the nearest \$5,000 for candidates for Mayor;

(2) The figure in Subsection (a)(2)(D) of this Section to reflect changes in the California Consumer Price Index, provided that such adjustments shall be rounded off to the nearest \$1,000-~~00~~;

1 (3) The figures in Subsections (b)(2) and (b)(3) of this Section to reflect changes in the
2 California Consumer Price Index, provided that such adjustments shall be rounded off to the
3 nearest \$500-~~00~~;

4 (4) The figures in Subsections (c)(2) and (c)(3) of this Section to reflect changes in the
5 California Consumer Price Index, provided that such adjustments shall be rounded off to the
6 nearest \$5,000-~~00~~; and

7 (5) The maximum amount of a contribution that constitutes a qualifying contribution
8 pursuant to Section 1.104 to reflect changes in the California Consumer Price Index, provided
9 that such adjustments shall be rounded off to the nearest \$10-~~00~~.

10 SEC. 1.142. PROCESS FOR ESTABLISHING ELIGIBILITY; CERTIFICATION BY THE
11 ETHICS COMMISSION.

12 (a) STATEMENT OF PARTICIPATION OR NON-PARTICIPATION. Each candidate for
13 the Board of Supervisors or Mayor must sign and ~~verify under penalty of perjury~~ *file* a Statement
14 of Participation or Non-Participation in the public financing program. The statement must be
15 filed by the candidate with the Ethics Commission no later than the deadline for filing
16 nomination papers. On the statement, each candidate shall indicate whether he or she intends
17 to participate in the public financing program. A statement of participation or non-participation
18 may not be amended after the deadline for filing nomination papers; ~~provided that, prior to~~
19 *December 31, 2007, any candidate for the Board of Supervisors who has filed a Statement of Non-*
20 *Participation may retract that Statement and file a Statement of Participation in the public financing*
21 *program.*

22 (b) DECLARATION BY CANDIDATE. To become eligible to receive public financing of
23 campaign expenses under this Chapter, a candidate shall declare, under penalty of perjury,
24 that the candidate satisfies the requirements specified in Section 1.140. Candidates shall be
25 permitted to submit the declaration and any supporting material required by the Ethics

Commission to the Ethics Commission ~~starting no earlier than nine (9)~~ months before the date of the election, but no later than the 70th day before the election. Once the declaration and supporting material are submitted, they may not be amended. The declaration and supporting material may be withdrawn and refiled, provided that the refile is made no later than the 70th day before the election.

If any deadline imposed by this Subsection falls on a Saturday, Sunday, or legal holiday, the deadline shall be the next business day.

(c) DETERMINATION OF ELIGIBILITY. The Executive Director of the Ethics Commission shall review the candidate's declaration and supporting material to determine whether the candidate is eligible to receive public funds under this Chapter. The Executive Director may audit the candidate's records, interview contributors and take whatever steps the Executive Director deems necessary to determine eligibility. At the request of the Executive Director, the Controller shall assist in this review process.

(d) DETERMINATION OF OPPOSITION. To determine whether a candidate for the Board of Supervisors is opposed as required under Section 1.140(b)(3) of this Chapter or a candidate for Mayor is opposed as required under Section 1.140(c)(3) of this Chapter, the Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter, and may review any other material.

(e) CERTIFICATION. If the Executive Director determines that a candidate for Mayor or the Board of Supervisors has satisfied the requirements of Section 1.140, the Executive Director shall notify the candidate and certify to the Controller that the candidate is eligible to receive public financing under this Chapter. The Executive Director shall not certify that a candidate is eligible to receive public financing if the candidate's declaration or supporting material is incomplete or otherwise inadequate to establish eligibility. The Executive Director shall determine whether to certify a candidate no later than 30 days after the date the

1 candidate submits his or her declaration and supporting material, provided that the Executive
2 Director shall make all determinations regarding whether to certify a candidate no later than
3 the 55th day before the election.

4 (f) RESUBMISSION. If the Executive Director declines to certify that a candidate is
5 eligible to receive public financing under this Chapter, the Executive Director shall notify the
6 candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five
7 business days of the date of notification, resubmit the declaration and supporting material. If
8 the candidate does not timely resubmit, the Executive Director's determination is final.

9 If, after viewing resubmitted material, the Executive Director declines to certify that a
10 candidate is eligible to receive public financing under this Chapter, the Executive Director
11 shall notify the candidate of this fact. Additional resubmissions may be permitted in the
12 Executive Director's discretion. If the candidate fails to resubmit in the time specified by the
13 Executive Director, or if no further resubmissions are permitted, the Executive Director's
14 determination is final.

15 (g) APPEAL TO THE ETHICS COMMISSION. If the Executive Director declines to
16 certify that a candidate is eligible to receive public financing under this Chapter, the candidate
17 may appeal the Executive Director's final determination to the Ethics Commission. The
18 candidate must deliver the written appeal to the Ethics Commission within five days of the
19 date of notification of the Executive Director's determination.

20 SEC. 1.144. DISBURSEMENT OF PUBLIC FUNDS—~~CANDIDATES FOR THE BOARD~~
21 ~~OF SUPERVISORS.~~

22 (a) PAYMENT BY CONTROLLER. Upon certifying that a candidate is eligible to
23 receive public financing under this Chapter, the Executive Director shall forward the
24 certification to the Controller, and the Controller shall disburse payments to the candidate from
25 the Election Campaign Fund in accordance with the certification and this Section.

(b) TIME OF PAYMENTS. The Controller shall not make any payments under this Chapter to any candidate more than nine ~~(9)~~ months before the date of the election. Payments from the Controller shall be disbursed to eligible candidates within ~~48 hours~~ two business days of the Controller receiving notification from the Ethics Commission regarding the amount of the disbursement, except that within ~~60 fifteen~~ calendar days before the election, such payments shall be made within ~~24 hours~~ one business day.

(c) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR MAYOR.

(1) Until the Per Candidate Available Disbursement Limit has been determined, candidates for Mayor who ~~m have been certified by~~ the Ethics Commission has certified as eligible to receive public financing for their election campaigns will have access to up to ~~\$850,000.00~~ \$250,000 in funds from the Election Campaign Fund on a first come, first served basis according to the formula set forth in Subsection (c)(3) of this Section.

(2) Once the Per Candidate Available Disbursement Limit has been determined, candidates for Mayor who ~~m have been certified by~~ the Ethics Commission has certified as eligible to receive public financing for their election campaigns shall have access to funds from the Election Campaign Fund as follows:

(A) If the Executive Director determines that the Per Candidate Available Disbursement Limit is greater than ~~\$850,000.00~~ \$250,000, each participating candidate shall have access to the amount of the Per Candidate Disbursement, subject to the limitations set forth under Subsection (c)(3)(D) and (c)(3)(E) of this Section.

(B) If the Executive Director determines the Per Candidate Available Disbursement Limit is less than or equal to ~~\$850,000.00~~ \$250,000, participating candidates shall have access to funds from the Election Campaign Fund on a first come, first served basis up to a maximum per candidate of ~~\$850,000.00~~ \$250,000.

(3) A candidate for Mayor who is certified as eligible to receive public financing under this Chapter shall receive payments for eligible matching contributions according to the following formula:

(A) Upon qualification the candidate shall receive a one-time payment of ~~\$50,000.00~~ from the Election Campaign Fund.

(B) After the initial payment under Subsection (c)(3)(A), for the first ~~\$100,000.00~~ in matching contributions raised by the candidate, the candidate shall receive four dollars from the Election Campaign Fund for each dollar raised.

(C) After the payments under Subsection (c)(3)(B), for the next ~~\$400,000.00~~ \$50,000 in matching contributions raised by the candidate, the candidate shall receive one dollar~~s~~ from the Election Campaign Fund for each dollar raised.

(D) The maximum amount of public funds a mayoral candidate may receive is ~~\$850,000.00~~ \$50,000, unless the candidate's Individual Expenditure Ceiling is ~~lifted~~ adjusted according to the rules set forth under Section ~~1.134.51~~ 1.143. ~~The amount of public funds paid under this Section shall not be affected by the lifting of expenditure limits under Section 1.134.~~

(E) If the Per Candidate Available Disbursement Limit has been determined to be an amount greater than ~~\$850,000.00~~ \$50,000, a candidate who has already received at least ~~\$850,000.00~~ \$50,000 in disbursements from the City shall continue to be eligible to receive public funds from the City at the rate of one dollar for each dollar of a matching contribution raised up to the Per Candidate Disbursement Limit, provided that no funds shall be disbursed if disbursement of the funds would result in the candidate exceeding his or her Trust Account Limit.

(d) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR THE BOARD OF SUPERVISORS.

(1) Until the Per Candidate Available Disbursement Limit has been determined, candidates for the Board of Supervisors who ~~have been certified by~~ the Ethics Commission has certified as eligible to receive public financing for their election campaigns will have access to up to ~~\$87,500.00~~\$89,000 in funds from the ~~Mayoral~~ Election Campaign Fund on a first come, first served basis according to the formula set forth in Subsection (d)(3) of this Section.

(2) Once the Per Candidate Available Disbursement Limit has been determined, candidates for the Board of Supervisors who ~~have been certified by~~ the Ethics Commission has certified as eligible to receive public financing for their election campaigns shall have access to funds from the Election Campaign Fund as follows:

(A) If the Executive Director determines that the Per Candidate Available Disbursement Limit is greater than ~~\$87,500.00~~\$89,000, each participating candidate shall have access to the amount of the Per Candidate Disbursement, subject to the limitations set forth under Subsection (d)(3)(D) and (d)(3)(E) of this Section.

(B) If the Executive Director determines the Per Candidate Available Disbursement Limit is less than or equal to ~~\$87,500.00~~\$89,000, participating candidates shall have access to funds from the Election Campaign Fund on a first come, first served basis up to a maximum per candidate of ~~\$87,500.00~~\$89,000.

(3) A candidate for the Board of Supervisors who is certified as eligible to receive public financing under this Chapter shall receive payments for eligible matching contributions according to the following formula:

(A) Upon qualification the candidate shall receive a one-time payment of \$10,000.~~00~~ from the Election Campaign Fund.

(B) After the initial payment under Subsection (d)(3)(A), for the first \$10,000.~~00~~ in matching contributions raised by the candidate, the candidate shall receive four dollars from the Election Campaign Fund for each dollar raised.

1 (C) After the payments under Subsection (d)(3)(B), for the next ~~\$37,500.00~~ \$39,000 in
2 matching contributions raised by the candidate, the candidate shall receive one dollar from the
3 Election Campaign Fund for each dollar raised.

4 (D) The maximum amount of public funds a candidate for the Board of Supervisors
5 may receive is ~~\$87,500.00~~ \$89,000, unless the candidate's Individual Expenditure Ceiling is
6 ~~adjusted lifted~~ according to the rules set forth under Section ~~1-134.51.143~~. ~~The amount of public~~
7 ~~funds paid under this Section shall not be affected by the lifting of expenditure limits under Section~~
8 ~~1-134.~~

9 (E) If the Per Candidate Available Disbursement Limit has been determined to be an
10 amount greater than ~~\$87,500.00~~ \$89,000, a candidate who has already received at least
11 ~~\$87,500.00~~ \$89,000 in disbursements from the City shall continue to be eligible to receive public
12 funds from the City at the rate of one dollar for each dollar of a matching contribution raised
13 up to the Per Candidate Disbursement Limit, provided that no funds shall be disbursed if
14 disbursement of the funds would result in the candidate exceeding his or her Trust Account
15 Limit.

16 (e) PER CANDIDATE AVAILABLE DISBURSEMENT LIMIT. On the 59th day before
17 the election, the Executive Director shall divide the total amount of non-administrative funds in
18 the Election Campaign Fund by the number of qualified candidates. This number shall be
19 deemed the Per Candidate Available Disbursement Limit. For the purposes of this section, the
20 total amount of non-administrative funds in the Election Campaign Fund shall be the total
21 amount of funds that existed in the Fund nine months before the date of election plus any
22 funds deposited into the Fund between that date and the 59th day before the election minus
23 any funds necessary to cover the administrative costs associated with implementing the public
24 financing program for the next election.

1 If there are candidates who have submitted a Declaration of Qualification but whose
2 eligibility has not been determined as of the 59th day before the election, the Executive
3 Director shall assume that they are qualified for the purposes of determining the Per
4 Candidate Available Disbursement Limit. The Per Candidate Available Disbursement Limit
5 shall be revised upward according to the formula above if and when it is determined that the
6 candidate or candidates in question did not qualify to receive public financing.

7 Immediately upon calculating the Per Candidate Available Disbursement Limit, the
8 Executive Director shall inform the Controller of the initial determination of the Per Candidate
9 Available Disbursement Limit. Thereafter, the Executive Director shall immediately inform the
10 Controller of any subsequent changes in the Per Candidate Available Disbursement Limit due
11 to a determination that a candidate has not qualified to receive public financing.

12 (f) SUBMISSION OF CLAIMS FOR PUBLIC FUNDS. The Ethics Commission shall
13 determine the information needed to submit a claim for payment of public funds. The
14 Executive Director shall certify each request for payment of public funds within four business
15 days of the request, except that within 14 calendar days before the election, when the
16 certification of a request for public funds shall be made within two business days of the
17 request. No candidate may submit a claim for public funds if the candidate has any such claims
18 pending with the Ethics Commission. For candidates for Mayor, any submission of a claim for
19 public funds must include a minimum of \$5,000-~~00~~ of matching contributions; provided that in
20 the 14 calendar days preceding an election, a claim must include a minimum of \$1,000-~~00~~ of
21 matching contributions. For candidates for the Board of Supervisors, any submission of a
22 claim for public funds must include a minimum of ~~\$500-00~~ \$1,000 of matching contributions;
23 provided that in the 14 calendar days preceding an election, a claim must include a minimum
24 of ~~\$100-00~~ \$200 of matching contributions. All claims for public funds must be submitted no later
25 than 5:00 p.m. on the 30th day following the date of the election.

1 (g) DEPOSIT IN CAMPAIGN CONTRIBUTION TRUST ACCOUNT. ~~A~~ Candidates
2 must deposit all payments received from the Election Campaign Fund in ~~the~~ his or her
3 candidate committee's Campaign Contribution Trust Account.

4 SEC. 1.146. TERMINATION OF PAYMENTS.

5 The Controller shall terminate all payments to a candidate who is otherwise eligible to
6 receive public financing if the candidate or the candidate's committee:

7 (a) Withdraws or fails to qualify to have his or her name printed on the ballot for the
8 election for which the candidate applied for public financing;

9 (b) Fails to comply with the conditions specified in Section 1.140 of this Chapter; or

10 (c) Knowingly or willfully fails to comply with any of the reporting requirements imposed
11 by this Chapter or the Political Reform Act, California Government Code Section 81000, et
12 seq.

13 SEC. 1.148. RESTRICTIONS ON USE OF PUBLIC FUNDS; UNEXPENDED PUBLIC
14 FUNDS.

15 (a) USE FOR QUALIFIED CAMPAIGN EXPENDITURES ONLY. Candidates who
16 receive public financing may use the public funds solely to pay for qualified campaign
17 expenditures, ~~as defined by Section 1.104 of this Chapter,~~ and to repay loans used to pay for
18 qualified campaign expenditures except that public funds may be used to pay filing fees and
19 costs incurred after the election that do not directly affect the outcome of the election,
20 including but not limited to utility bills, expenses associated with an audit, and expenses
21 related to preparing post-election campaign finance disclosure reports as required by the
22 California Political Reform Act, Government Code Section 81000, et seq., and the provisions
23 of this Chapter. Candidates may not use public funds to pay for expenses incurred in
24 connection with an administrative or judicial proceeding. Candidates may not use public funds
25 to pay administrative, civil or criminal fines, including late filing fines, or to pay for inaugural

activities or officeholder expenses. Candidates may not use public funds to pay post-election bonuses to campaign employees or for election victory celebrations or similar post-election campaign events.

~~(b) PURCHASE OF EQUIPMENT. Any equipment purchased by a candidate with public funds provided under this Chapter that has a useful life beyond the election campaign for which the funds were provided, and a fair market value exceeding \$100.00, becomes City and County property on the day following the date the candidate is elected or not elected to office.~~

(eb) WITHDRAWAL OR FAILURE TO QUALIFY. Any candidate who receives public financing but who withdraws or fails to qualify to have his or her name printed on the ballot in the election for which the public funds were provided shall repay the Election Campaign Fund the full sum received from the Fund.

(dc) UNEXPENDED PUBLIC FUNDS.

~~(i) General.~~ Any candidate who receives public financing and whose se committee has unexpended public funds shall pay to the City and County of San Francisco and deliver to the Ethics Commission those funds for deposit in the Election Campaign Fund no later than 30 days after the Ethics Commission completes its audit of the candidate's committee. Unexpended funds may be used to pay for expenses associated with an audit such as bank fees, treasurer fees and storage fees until the Ethics Commission completes its audit of the candidate's committee.

~~(ii) Definition. For purposes of this Section, unexpended public funds shall mean all funds remaining in the candidate's account on the 30th day after the candidate is elected or not elected to office, regardless of the source of the funds, but shall not exceed the amount of public funds provided to the candidate. Funds raised after this date do not constitute unexpended funds and may be used for any lawful purpose.~~

SEC. 1.150. AUDIT; REPAYMENT.

1 (a) AUDIT. The Ethics Commission shall audit all candidate committees whose candidates
2 have received public financing under this Chapter. Audits of candidate committees conducted
3 under this Subsection shall begin within 60 days after the date the candidate committees' first
4 post-election campaign disclosure report is required to be filed pursuant to Section 1.106 of
5 this Chapter. In his or her discretion, the Executive Director may initiate additional targeted or
6 randomly selected audits of any committee, irrespective of whether the committee received any public
7 funds. At the request of the Executive Director, the Controller shall assist in conducting these
8 audits.

9 (b) REPAYMENT.

10 (1) If the Ethics Commission determines that any portion of the payments made to a
11 candidate from the Election Campaign Fund exceeded the aggregate amount of payments to
12 which the candidate was entitled under this Chapter, the Commission shall notify the
13 Controller and the candidate. In addition to any other penalties, the candidate shall pay to the
14 City and County of San Francisco, and deliver to the Ethics Commission an amount equal to
15 the amount of the excess payments, and if the Commission determines that any amount of
16 any payment made to a candidate from the Election Campaign Fund was used for something
17 other than qualified campaign expenditures, the candidate shall pay to the Ethics Commission
18 an amount equal to the improper expenditure.

19 (2) Any candidate who receives public funds under this Chapter and exceeds his or her
20 Individual Expenditure Ceiling by ten percent or more shall, in addition to any other penalties,
21 pay to the Ethics Commission an amount equal to the amount of public funds the candidate
22 received under this Chapter.

23 (3) All payments delivered to the Ethics Commission under this Section shall be
24 deposited in the Election Campaign Fund.
25

1 SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF
2 SUPERVISORS AND MAYOR.

3 (a) ELECTIONS FOR THE BOARD OF SUPERVISORS.

4 (1) In addition to the campaign disclosure requirements imposed by the California
5 Political Reform Act and other provisions of this Chapter, each candidate committee supporting
6 a candidate for the Board of Supervisors shall file a statement with the Ethics Commission
7 indicating when the ~~candidate~~ committee has received contributions to be deposited into its
8 Campaign Contribution Trust Account; or made expenditures ~~or has funds in his or her Campaign~~
9 ~~Contribution Trust Account~~ that ~~in the aggregate~~ equal or exceed \$5,000.00 within 24 hours of
10 reaching or exceeding that amount.

11 (2) In addition to the supplemental report in Subsection (a)(1) of this Section, each
12 candidate committee supporting a candidate for the Board of Supervisors shall file a statement
13 with the Ethics Commission disclosing when the ~~candidate~~ committee has received
14 contributions to be deposited into its Campaign Contribution Trust Account; or made expenditures
15 ~~or has funds in his or her Campaign Contribution Trust Account~~ that in the aggregate equal or
16 exceed \$100,000.00. The candidate committee shall file this report within 24 hours of reaching
17 or exceeding the threshold. Thereafter, the candidate committee shall file an additional
18 supplemental report within 24 hours of every time the candidate committee receives additional
19 contributions to be deposited into its Campaign Contribution Trust Account; or makes additional
20 expenditures ~~or has additional funds in his or her campaign trust account~~ that in the aggregate
21 equal or exceed \$10,000.00.

22 (3) Any person ~~other than a candidate committee who~~ that makes expenditures for the
23 purpose of distributing independent expenditures, electioneering communications, or member
24 communications that clearly identify any candidate for the Board of Supervisors and the
25 amount of those expenditures in an amount that in the aggregate equals or exceeds \$5,000.00 per

1 candidate, shall, within 24 hours of reaching or exceeding ~~the spending this~~ threshold, file a
2 statement with the Ethics Commission, ~~provide an original~~ Such statement shall include a legible
3 copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via
4 audio or video, ~~to the Ethics Commission and file a statement with the Ethics Commission~~ disclosing
5 the cost of each communication, and provide any additional information required by the Ethics
6 Commission. Every person who is required to file a statement with the Ethics Commission
7 pursuant to this Subsection shall indicate on the statement which candidate or candidates for
8 the Board of Supervisors the independent expenditures, electioneering communications, or
9 member communications disclosed on the statement ~~are intended to~~ support or oppose, or
10 whether they are ~~intended to be neutral, provided that an independent expenditure may not be~~
11 ~~neutral~~. For the purposes of this Subsection, the costs of a communication that supports or
12 opposes more than one candidate or ballot measure shall be apportioned among each
13 candidate and measure in the communication.

14 Thereafter, any such person shall file a supplemental statement with the Ethics
15 Commission each time the person makes expenditures for the purpose of distributing
16 independent expenditures, electioneering communications or member communications ~~in~~
17 ~~support of or in opposition to that clearly identify~~ any candidate for the Board of Supervisors in an
18 amount that in the aggregate equals or exceeds an additional \$5,000.00 per candidate. The
19 supplemental statements shall be filed within 24 hours of reaching or exceeding ~~the spending~~
20 this threshold, and shall include a legible copy of the communication if it is conveyed in writing or an
21 electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and
22 provide any additional information required by the Ethics Commission.

23 The Executive Director shall post the information disclosed on statements required by
24 this subsection on the website page of the Ethics Commission within two business days of the
25 statement's filing being filed.

1 (b) ELECTIONS FOR MAYOR.

2 (1) In addition to the campaign disclosure requirements imposed by the California
3 Political Reform Act and other provisions of this Chapter, each candidate committee supporting
4 a candidate for Mayor shall file a statement with the Ethics Commission indicating when the
5 candidate committee has received contributions to be deposited into its Campaign Contribution
6 Trust Account; or made expenditures or has funds in his or her Campaign Contribution Trust
7 Account that ~~in the aggregate~~ equal or exceed \$50,000-00 within 24 hours of reaching or
8 exceeding that amount.

9 (2) In addition to the supplemental report in Subsection (b)(1) of this Section, each
10 candidate committee supporting a candidate for Mayor shall file a statement with the Ethics
11 Commission disclosing when the candidate committee has received contributions to be
12 deposited into its Campaign Contribution Trust Account; or made expenditures or has funds in his or
13 her Campaign Contribution Trust Account that in the aggregate equal or exceed \$1,000,000-00.
14 The candidate committee shall file this report within 24 hours of reaching or exceeding the
15 threshold. Thereafter, the candidate committee shall file an additional supplemental report
16 within 24 hours of every time the candidate committee receives additional contributions; or
17 makes additional expenditures or has additional funds in his or her campaign trust account that in
18 the aggregate equal or exceed \$50,000-00.

19 (3) Any person other than a candidate committee who that makes expenditures for the
20 purpose of distributing independent expenditures, electioneering communications, or member
21 communications that clearly identify any candidate for Mayor, ~~in an~~ and the amount of those
22 expenditures that in the aggregate equals or exceeds ~~\$5,000-00~~ 10,000 per candidate, shall, within
23 24 hours of reaching or exceeding ~~the spending this~~ threshold, file a statement with the Ethics
24 Commission, provide Such statement shall include ~~an original~~ legible copy of the communication if
25 it is conveyed in writing or an electronic recording if it is conveyed via audio or video, to the Ethics

1 ~~Commission and file a statement with the Ethics Commission disclosing~~ the cost of each
2 ~~communication, and provide any additional information required by the Ethics Commission.~~ Every
3 person who is required to file a statement with the Ethics Commission pursuant to this
4 Subsection shall indicate on the statement which candidate or candidates for Mayor the
5 independent expenditures, electioneering communications, or member communications
6 disclosed on the statement ~~are intended to support or oppose, or whether they are intended to~~
7 ~~be neutral; provided that an independent expenditure may not be neutral.~~ For the purposes of this
8 Subsection, the costs of a communication that supports or opposes more than one candidate
9 or ballot measure shall be apportioned among each candidate and measure in the
10 communication.

11 Thereafter, any such person shall file a supplemental statement with the Ethics
12 Commission each time the person makes expenditures for the purpose of distributing
13 independent expenditures, electioneering communications or member communications ~~in~~
14 ~~support of or in opposition to that clearly identify~~ any candidate for Mayor in an amount that in the
15 aggregate equals or exceeds an additional ~~\$5,000.00~~ 10,000 per candidate. The supplemental
16 statements shall be filed within 24 hours of reaching or exceeding ~~the spending this~~ threshold,
17 and shall include a legible copy of the communication if it is conveyed in writing or an electronic
18 recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any
19 additional information required by the Ethics Commission.

20 The Executive Director shall post the information disclosed on statements required by
21 this subsection on the website page of the Ethics Commission within two business days of the
22 statement's filing being filed.

23 (c) The supplemental statements required by Subsections (a)(2), (a)(3), (b)(2) and
24 (b)(3) are not required until the Ethics Commission has certified that at least one candidate ~~for~~
25 is eligible to receive public funds under this Chapter, provided that within two business days of

the date that the Ethics Commission provides notice under this subsection that it has certified that a candidate is eligible to receive public funds under this Chapter, any report that previously would have been required under (a)(2), (a)(3), (b)(2) or (b)(3) must be filed. Within two business days of certifying that at least one candidate is eligible to receive public financing under this Chapter, the Ethics Commission shall post a notice on its web site page, send out a press release and send written notice by regular or electronic mail to all other candidates running for the same City elective office and to any other person who has requested such notice.

SEC. 1.156. REPORT TO THE MAYOR AND BOARD OF SUPERVISORS.

~~(a)~~ Following each election at which the Mayor or members of the Board of Supervisors are elected, the Ethics Commission shall submit a report to the Mayor and Board of Supervisors. The report shall state the amount of public funds used to pay for election campaigns in that election and such other information as the Ethics Commission deems useful, including the number of candidates who received public funds; the number of nonparticipating candidates; the amount of qualified campaign expenditures made by all candidates in that election; and the amount of independent expenditures made in connection with the election.

~~(b) Following the November 2007 municipal election, the Ethics Commission shall conduct a study and submit a report to the Mayor and Board of Supervisors regarding the feasibility and costs of converting the partial public financing program for Mayoral candidates into a full public financing program. Following the November 2008 Municipal Election, the Ethics Commission shall conduct a study and submit a report to the Mayor and Board of Supervisors regarding the feasibility and costs of converting the partial public financing program for candidates for the Board of Supervisors into a full public financing program.~~

SEC. 1.161. DISCLOSURE AND FILING REQUIREMENTS FOR MASS MAILINGS.

1 (a) MASS MAILINGS BY CANDIDATES.

2 (1) Disclosure. In addition to the requirements set forth in California Government Code
3 Section 84305, each mass mailing paid for by a candidate ~~committee for City elective office with~~
4 ~~funds raised for the candidate's campaign~~ shall include on the outside of each piece of mail in the
5 mass mailing the following statement in not less than 14 point type and in a color or print
6 which contrasts with the background so as to be easily legible: "paid for by _____ (insert
7 candidate's committee's name and street address)." A post office box may be stated in lieu of a
8 street address if the candidate committee's address is a matter of public record with the ~~San~~
9 ~~Francisco~~ Ethics Commission.

10 (2) Filing.

11 (i) Each candidate ~~committee that for City elective office who~~ pays for a mass mailing
12 shall, within five working days after the date of the mailing, file two ~~of the original~~ pieces of the
13 mailing with the ~~San Francisco~~ Ethics Commission.

14 (ii) Each candidate ~~committee that for City elective office who~~ pays for a mass mailing
15 shall, within five ~~working business~~ days after the date of the mailing, file an itemized disclosure
16 statement with the ~~San Francisco~~ Ethics Commission for that mailing.

17 (iii) Each candidate ~~committee that for City elective office who~~ pays for a mass mailing
18 shall file ~~the original two~~ pieces of mail and the itemized disclosure statement required by
19 Subsections (a)(2)(i) and (a)(2)(ii) within 48 hours of the date of the mailing if the date of the
20 mailing occurs within the final 16 days before the election.

21 (iv) Every ~~original mass mailing~~ filed pursuant to this subsection shall be clearly legible.

22 (b) MASS MAILINGS BY PERSONS OTHER THAN CANDIDATES.

23 (1) Disclosure. Any person who makes independent expenditures for a mass mailing
24 which supports or opposes any candidate for City elective office shall place the following
25 statement on the mailing in typeface no smaller than 14 points:

1 Notice to Voters (Required by City and County of San Francisco) This mailing is not
2 authorized or approved by any candidate for City and County office or by any election official.
3 It is paid for by [name and committee identification number]. [address, city, state]. Total Cost
4 of this mailing is [amount].

5 (2) Filing.

6 (i) Each person who makes independent expenditures of \$1,000.00 or more for a mass
7 mailing which supports or opposes any candidate for City elective office shall, ~~within five~~
8 ~~working days after the date of the mailing,~~ file two ~~of the original~~ pieces of the mailing and an
9 itemized disclosure statement for the mailing with the San Francisco Ethics Commission, unless that
10 person is otherwise required to file disclosures regarding the communication under Section 1.134,
11 1.152, or 1.161 of this Code.

12 (ii) Any filing required by this Section shall be submitted within five business days after the
13 date of the mailing if the date of the mailing is more than 16 days before the election, and within 48
14 hours after the mailing if the date of the mailing occurs within the final 16 days before the election.

15 ~~(ii) Each person described in Subsection (b)(2)(i) shall, within five working days after the date~~
16 ~~of the mailing, file an itemized disclosure statement with the San Francisco Ethics Commission for that~~
17 ~~mailing.~~

18 ~~(iii) Each person described in Subsection (b)(2)(i) shall file the original pieces of mail and the~~
19 ~~itemized disclosure statement required by Subsections (b)(2)(i) and (b)(2)(ii) within 48 hours of the~~
20 ~~date of the mailing if the date of the mailing occurs within the final 16 days before the election.~~

21 ~~(iviii) Every original piece of mail~~ filed pursuant to this ~~sub~~Section shall be clearly
22 legible.

23 ~~(iv) The Ethics Commission may permit any required statement or mailing to be filed by~~
24 ~~facsimile.~~

25 ~~(c) DEFINITIONS.~~

1 (1) For the purposes of this Section, "Itemized disclosure statement" shall mean a detailed
2 description of the separate costs associated with a mass mailing, including but not limited to
3 photography, design, production, printing, distribution and postage. Each cost shall be disclosed on a
4 form promulgated by the San Francisco Ethics Commission in a manner that demonstrates each
5 separate charge or payment for each mass mailing.

6 (2) For the purposes of this Section, "Mass mailing" shall be defined as set forth in the
7 California Political Reform Act (Government Code Section 81000 et seq.), provided that the mass
8 mailing advocates for or against one or more candidates for City elective office.

9 SEC. 1.161.5. DISCLOSURE AND FILING FOR ELECTIONEERING
10 COMMUNICATIONS.

11 (a) DISCLOSURE STATEMENTS.

12 (1) Every electioneering communication shall include a disclosure statement identifying
13 the person who paid for the communication. Such disclosure statement shall, at a minimum,
14 contain the following words, "paid for by _____ (insert the name of the person who paid
15 for the communication)."

16 (2) Any disclosure statement required by this section to be in printed form shall be
17 printed in a type and color so as to be easily legible to the intended public. Such disclosure
18 statement shall be printed in at least 14 point type and in a color or print that contrasts with
19 the background so as to be easily legible to the intended public.

20 (3) Any disclosure statement required by this Section to be in spoken form shall be
21 spoken at the same volume and speed as the rest of the communication so as to be clearly
22 audible and understood by the intended public and otherwise appropriately conveyed for the
23 hearing impaired.

24 (b) REPORTING OBLIGATIONS.

(1) Every person who makes payments for electioneering communications in an aggregate amount of \$1,000-~~00~~ during any calendar year shall, within 48 hours of each disclosure date, file an itemized disclosure statement with the ~~San Francisco~~ Ethics Commission, unless that person is otherwise required to file disclosures regarding the communication under Section 1.134, 1.152, or 1.161 of this Code.

(2) Each itemized disclosure statement required to be filed under this Section ~~shall be filed on a form promulgated by the San Francisco Ethics Commission and~~ shall contain the following information:

(A) the full name, street address, city, state and zip code of the person making payments for electioneering communications;

(B) the name of any individual sharing or exercising direction and control over the person making payments for electioneering communications;

(C) the total amount of payments made by the person for electioneering communications during the calendar year;

(D) a detailed description of each payment made by the person for electioneering communications during the calendar year, provided that the person has not already reported such payments on an itemized disclosure statement filed under this Section; such detailed description shall include the date the payment was made, the full name and address of the person to whom the payment was made; the amount of the payment, and a brief description of the consideration for which each payment was made;

(E) a detailed accounting of any payments of \$100-~~00~~ or more that the person has received from another person, which were used for making electioneering communications, provided that the person has not already reported such payments received on an itemized disclosure statement filed under this Section; such detailed accounting shall include the dollar amount or value of each payment, the date of the payment's receipt, the name, street

1 address, city, state, and zip code of the person who made such payment, the occupation and
2 employer of the person who made such payment, if any, or, if the person is self-employed, the
3 name of the person's business, and the cumulative amount of payments received for the
4 purpose of making electioneering communications from that person during the calendar year;

5 (F) the total amount of all payments reported under Subsection (E) during the calendar
6 year;

7 (G) a legible copy of the electioneering communication if in printed form, or a transcript
8 of the electioneering communication if in spoken form; and

9 (H) any other information required by the Ethics Commission consistent with the
10 purposes of this Section.

11 (3) The filer shall verify, under penalty of perjury, the accuracy and completeness of the
12 information provided in the itemized disclosure statement, and shall retain for a period of five
13 years all books, papers and documents necessary to substantiate the itemized statements
14 required by this Section.

15 (4) The Ethics Commission may ~~require any itemized statement to be filed electronically and~~
16 ~~may permit any required statement~~ or mailing ~~to be filed by facsimile. The Ethics Commission~~
17 ~~shall promulgate regulations to implement this subsection before any person shall be required to file an~~
18 ~~itemized statement electronically or permitted to file a statement by facsimile.~~

19 ~~(5) If any person files an itemized statement after any deadline imposed by this Section, the~~
20 ~~Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter,~~
21 ~~fine the person \$10.00 per day after the deadline until the statement is received by the Ethics~~
22 ~~Commission. The Ethics Commission may reduce or waive a fine if the Commission determines that the~~
23 ~~late filing was not willful and that enforcement will not further the purposes of this Chapter. The Ethics~~
24 ~~Commission shall deposit funds collected under this Section in the General Fund of the City and~~
25 ~~County of San Francisco.~~

(c) DEFINITIONS. Whenever in this Section the following words or phrases are used, they shall mean:

(1) "Disclosure Date" shall mean:

(A) the first date during any calendar year when an electioneering communication is distributed after a person has made payments aggregating \$1,000.00 for electioneering communications; and

(B) after a person has met the threshold under Subsection (A), any date during that same calendar year when an electioneering communication is distributed, if that same person made any payments for such electioneering communication.

(2) "Distributed" shall mean any act that permits an electioneering communication to be viewed, read or heard.

(3) "Electioneering Communication" shall mean any communication, including but not limited to any broadcast, cable, satellite, radio, internet, or telephone communication, and any mailing, flyer, doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed advertisement, that:

(A) refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election; and

(B) is distributed within 90 days prior to an election for the City elective office sought by the candidate or a recall election regarding the City elective officer to 500 or more individuals who are registered to vote or eligible to register to vote in the election or recall election. There shall be a rebuttable presumption that any that any broadcast, cable, satellite, or radio communication and any sign, billboard or printed advertisement is distributed to 500 or more individuals who are eligible to vote ~~in or eligible to register to vote in an election for the City elective office sought by the candidate or a recall election regarding the City elective officer~~ for or against the candidate clearly identified in the communication.

1 (C) The term "Electioneering Communication" shall not include:

2 (i) communications that constitute ~~expenditures or~~ independent expenditures under this
3 Chapter;

4 (ii) communications made by a slate mailer organization if such communications are
5 required to be disclosed under the California Political Reform Act, California Government Code
6 Section 81000, et seq.;

7 (iii) communications paid for by the City or any other local, State or Federal
8 government agency;

9 (iv) spoken non-recorded communications between two or more individuals in direct
10 conversation unless such communications are made by telephone and at least one of the
11 individuals is compensated for the purposes of making the telephone communication;

12 (v) communications that appear on bumper stickers, pins, stickers, hat bands, badges,
13 ribbons and other similar memorabilia;

14 (vi) news stories, commentaries or editorials distributed through any newspaper, radio
15 station, television station, or other recognized news medium unless such news medium is
16 owned or controlled by any political party, political committee or candidate;

17 (vii) communications to all members, employees and shareholders of an organization,
18 other than a political party, provided that such communications do not constitute general
19 public advertising such as, but not limited to, broadcasting, billboards, and newspaper
20 advertisements;

21 (viii) communications that occur during a candidate debate or forum; and

22 (ix) communications made solely to promote a candidate debate or forum made by or
23 on behalf of the person sponsoring the debate or forum, provided that such communications
24 do not otherwise discuss the positions or experience of a candidate for City elective office or a
25 City elective officer who is the subject of a recall election.

1 (4) "Internet Communication" shall include paid internet advertisements such as
2 "banner" and "pop up" advertisements, paid emails or emails sent to addresses purchased
3 from another person, and similar types of internet communications as defined by the Ethics
4 Commission by regulation, but shall not include web blogs, listserves sent to persons who
5 have contacted the sender, discussion forums, or general postings on web pages.

6 (5) "Payment" shall be defined as set forth in Government Code of the State of
7 California (commencing at Section 81000); provided, however, that "payment" shall also
8 include any enforceable promise to make a payment.

9 (6) "Refers to a clearly identified candidate for City elective office or a City elective
10 officer who is the subject of a recall election" shall mean any communication that contains the
11 candidate's or officer's name, nickname or image or makes any other unambiguous reference
12 to the candidate or officer such as "your Supervisor" or "the incumbent."

13 (D) REGULATIONS. The Ethics Commission shall issue regulations implementing this
14 Section, including regulations defining all members, employees and shareholders of an
15 organization.

16 SEC. 1.168. ENFORCEMENT; ADVICE.

17 (a) ENFORCEMENT- GENERAL PROVISIONS.

18 Any person who believes that a violation of this Chapter has occurred may file a
19 complaint with the Ethics Commission, City Attorney or District Attorney. The Ethics
20 Commission shall investigate such complaints pursuant to Charter Section C3.699-13 and its
21 implementing regulations. The City Attorney and District Attorney shall investigate, and shall
22 have such investigative powers as are necessary for the performance of their duties under
23 this Chapter.

24 (b) ENFORCEMENT- CIVIL ACTIONS.

1 The City Attorney, or any voter, may bring a civil action to enjoin violations of or compel
2 compliance with the provisions of this Chapter.

3 No voter may commence an action under this Subsection without first providing written
4 notice to the City Attorney of intent to commence an action. The notice shall include a
5 statement of the grounds for believing a cause of action exists. The voter shall deliver the
6 notice to the City Attorney at least ~~sixty~~ 60 days in advance of filing an action. No voter may
7 commence an action under this Subsection if the Ethics Commission has issued a finding of
8 probable cause that the defendant violated the provisions of this Chapter, or if the City
9 Attorney or District Attorney has commenced a civil or criminal action against the defendant,
10 or if another voter has filed a civil action against the defendant under this Subsection.

11 A Court may award reasonable attorney's fees and costs to any voter who obtains
12 injunctive relief under this Subsection. If the Court finds that an action brought by a voter
13 under this Subsection is frivolous, the Court may award the defendant reasonable attorney's
14 fees and costs.

15 (c) STATUTE OF LIMITATIONS.

16 (1) Criminal. Prosecution for violation of this Chapter must be commenced within four
17 years after the date on which the violation occurred.

18 (2) Civil. No civil action alleging a violation in connection with a campaign statement
19 required under this Chapter shall be filed more than four years after an audit could begin, or
20 more than one year after the Executive Director submits to the Commission any report of any
21 audit conducted of the alleged violator, whichever period is less. Any other civil action alleging
22 a violation of any provision of this Chapter shall be filed no more than four years after the date
23 on which the violation occurred.

24 (3) Administrative. No administrative action alleging a violation of this Chapter and
25 brought under Charter Section C3.699-13 shall be commenced more than ~~five~~ four years after

1 the date on which the violation occurred. The date on which the Commission forwards a
2 complaint or information in its possession regarding an alleged violation to the District
3 Attorney and City Attorney as required by Charter Section C3.699-13 shall constitute the
4 commencement of the administrative action.

5 (4) Collection of fines and penalties. A civil action brought to collect fines or penalties
6 imposed under this Chapter shall be commenced within four years after the date on which the
7 monetary penalty or fine was imposed. For purposes of this Section, a fine or penalty is
8 imposed when a court or administrative agency has issued a final decision in an enforcement
9 action imposing a fine or penalty for a violation of this Chapter or the Executive Director has
10 made a final decision regarding the amount of a late fine or penalty imposed under this
11 Chapter. The Executive Director does not make a final decision regarding the amount of a late
12 fine or penalty imposed under this Chapter until the Executive Director has made a
13 determination to accept or not accept any request to waive a late fine or penalty where such
14 waiver is expressly authorized by statute, ordinance, or regulation.

15 (d) ADVICE. Any person may request advice from the Ethics Commission or City
16 Attorney with respect to any provision of this Chapter. The Ethics Commission shall provide
17 advice pursuant to Charter Section C3.699-12. The City Attorney shall within 14 days of the
18 receipt of said written request provide the advice in writing or advise the person who made the
19 request that no opinion will be issued. The City Attorney shall send a copy of said request to
20 the District Attorney upon its receipt. The City Attorney shall within nine days from the date of
21 the receipt of said written request send a copy of his or her proposed opinion to the District
22 Attorney. The District Attorney shall within four days inform the City Attorney whether he or
23 she agrees with said advice, or state the basis for his or her disagreement with the proposed
24 advice.

1 No person other than the City Attorney who acts in good faith on the advice of the City
2 Attorney shall be subject to criminal or civil penalties for so acting; provided that, the material
3 facts are stated in the request for advice and the acts complained of were committed in
4 reliance on the advice.

5 SEC. 1.170. PENALTIES.

6 (a) CRIMINAL. Any person who knowingly or willfully violates any provision of this
7 Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a
8 fine of not more than \$5,000-~~00~~ for each violation or by imprisonment in the County jail for a
9 period of not more than six months or by both such fine and imprisonment; provided, however,
10 that any willful or knowing failure to report contributions or expenditures done with intent to
11 mislead or deceive or any willful or knowing violation of the provisions of Section 1.114 of this
12 Chapter shall be punishable by a fine of not less than \$5,000 for each violation or three times
13 the amount not reported or the amount received in excess of the amount allowable pursuant
14 to Section 1.114 of this Chapter, or three times the amount expended in excess of the amount
15 allowable pursuant to Section 1.130 or 1.140.5, whichever is greater.

16 (b) CIVIL. Any person who intentionally or negligently violates any of the provisions of
17 this Chapter shall be liable in a civil action brought by the civil prosecutor for an amount up to
18 \$5,000-~~00~~ for each violation or three times the amount not reported or the amount received in
19 excess of the amount allowable pursuant to Section 1.114 or three times the amount
20 expended in excess of the amount allowable pursuant to Section 1.130 or 1.140.5, whichever
21 is greater.

22 (c) ADMINISTRATIVE. Any person who intentionally or negligently violates any of the
23 provisions of this Chapter shall be liable in an administrative proceeding before the Ethics
24 Commission held pursuant to the Charter ~~for an amount up to \$5,000.00 for each violation, or~~
25 ~~three times the amount not reported or the amount received in excess of the amount allowable pursuant~~

1 ~~to Section 1.114 or three times the amount expended in excess of the amount allowable pursuant to~~
2 ~~Section 1.130 or 1.140.5, whichever is greater~~ for any penalties authorized therein.

3 (d) LATE FILING FEES

4 (1) Fees for Late Paper Filings. In addition to any other penalty, any person who files a
5 paper copy of any statement or report after the deadline imposed by this Chapter shall be
6 liable in the amount of ten dollars (\$10.00) per day after the deadline until the statement is
7 filed.

8 (2) In addition to any other penalty, any person who files an electronic copy of a
9 statement or report after the deadline imposed by this Chapter shall be liable in the amount of
10 twenty-five dollars (\$25.00) per day after the deadline until the electronic copy or report is
11 filed.

12 (3) Limitation on Liability. Liability imposed by Subsection (d)(1) shall not exceed the
13 cumulative amount stated in the late statement or report, or one hundred dollars (\$100.00),
14 whichever is greater. Liability imposed by Subsection (d)(2) shall not exceed the cumulative
15 amount stated in the late statement or report, or two hundred fifty dollars (\$250.00), whichever
16 is greater.

17 (4) Reduction or Waiver. The Ethics Commission may reduce or waive a fee imposed
18 by this subsection if the Commission determines that the late filing was not willful and that
19 enforcement will not further the purposes of this Chapter.

20 (e) MISUSE OF PUBLIC FUNDS. Any person who willfully or knowingly uses public
21 funds, paid pursuant to this Chapter, for any purpose other than the purposes authorized by
22 this Chapter shall be subject to the penalties provided in this Section.

23 (f) PROVISION OF FALSE OR MISLEADING INFORMATION TO THE ETHICS
24 COMMISSION; WITHHOLDING OF INFORMATION. Any person who knowingly or willfully
25 furnishes false or fraudulent evidence, documents, or information to the Ethics Commission

1 under this Chapter, or misrepresents any material fact, or conceals any evidence, documents,
2 or information, or fails to furnish to the Ethics Commission any records, documents, or other
3 information required to be provided under this Chapter shall be subject to the penalties
4 provided in this Section.

5 (g) PERSONAL LIABILITY. Candidates and treasurers are responsible for complying
6 with this Chapter and may be held personally liable for violations by their committees. Nothing
7 in this Chapter shall operate to limit the candidate's liability for, nor the candidate's ability to pay, any
8 fines or other payments imposed pursuant to administrative or judicial proceedings.

9 (h) JOINT AND SEVERAL LIABILITY. If two or more persons are responsible for any
10 violation of this Chapter, they shall be jointly and severally liable.

11 (i) EFFECT OF VIOLATION ON OUTCOME OF ELECTION.

12 (1) If a candidate is convicted of a violation of this Chapter at any time prior to his or
13 her election, his or her candidacy shall be terminated immediately and he or she shall be no
14 longer eligible for election, unless the court at the time of sentencing specifically determines
15 that this provision shall not be applicable. No person convicted of a misdemeanor under this
16 Chapter after his or her election shall be a candidate for any other City elective office for a
17 period of five years following the date of the conviction unless the court shall at the time of
18 sentencing specifically determine that this provision shall not be applicable.

19 (2) If a candidate for Mayor or the Board of Supervisors is found by a court to have
20 exceeded the Individual Expenditure Ceiling in this Chapter by ten percent or more at any
21 time prior to his or her election, he or she is ineligible for election, unless the court specifically
22 determines that this provision shall not be applicable. If feasible, the candidate's name shall
23 be removed from the ballot. No candidate for Mayor or the Board of Supervisors who is found
24 by a court to have exceeded the Individual Expenditure Ceiling in this Chapter by ten percent
25 or more after his or her election shall be a candidate for any City elective office for a period of

1 ~~5-five~~ years following the court's determination unless the court specifically determines that
2 this provision shall not be applicable. The Ethics Commission may make a recommendation to
3 the Board of Supervisors that a candidate found by a court to have exceeded the Individual
4 Expenditure Ceiling in this Chapter by ten percent or more should be removed from office.

5 (3) A plea of nolo contendere shall be deemed a conviction for purposes of this
6 Section.

7 Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby
8 amended by deleting Sections 1.134.5, 1.158, and 1.160, to read as follows:

9 ~~SEC. 1.134.5. LIFTING OF INDIVIDUAL EXPENDITURE CEILINGS.~~

10 ~~This Section shall apply only if the Ethics Commission has certified that at least one candidate~~
11 ~~for Mayor or the Board of Supervisors is eligible to receive public funds under this Chapter.~~

12 ~~(a) The Executive Director shall lift the Individual Expenditure Ceiling of a candidate for~~
13 ~~Mayor to an amount equal to the sum of the highest level of the Total Supportive Funds of any other~~
14 ~~candidate for Mayor and the Total Opposition Spending against that candidate if such amount is~~
15 ~~greater than \$1,375,000, provided that the Executive Director may lift a candidate's Individual~~
16 ~~Expenditure Ceilings only in increments of \$100,000.~~

17 ~~(b) The Executive Director shall lift the Individual Expenditure Ceiling of a candidate for the~~
18 ~~Board of Supervisors to an amount equal to the sum of the highest level of the Total Supportive Funds~~
19 ~~of any other candidate for the same office on the Board of Supervisors and the Total Opposition~~
20 ~~Spending against that candidate if such amount is greater than \$140,000, provided the Executive~~
21 ~~Director may lift a candidate's Individual Expenditure Ceiling only in increments of \$10,000.~~

22 ~~(c) On the fourth business day after a statement is filed pursuant to Section 1.152 (a)(3) and~~
23 ~~(b)(3) of this Chapter, the Executive Director shall determine whether to lift the Individual Expenditure~~
24 ~~Ceilings of each candidate for Mayor or the Board of Supervisors pursuant to Subsections (a) and (b)~~
25 ~~of this Section based on the information in the statement unless pursuant to Subsection (d) a candidate~~

1 for Mayor or the Board of Supervisors requests that the Executive Director make a determination
2 regarding which candidate or candidates the communication filed with the statement supports or
3 opposes or whether the communication is neutral.

4 (d) Any candidate for Mayor or the Board of Supervisors may request that the Executive
5 Director review the original or copy of a communication filed pursuant to Section 1.152(b)(3) of this
6 Chapter to make an independent determination regarding which candidate or candidates for Mayor or
7 the Board of Supervisors the communication actually supports or opposes or whether the
8 communication is neutral. Such requests must be filed with the Executive Director within three business
9 days from the date the original or copy of the communication is filed. Factors the Executive Director
10 shall use to determine whether the communication supports or opposes one or more candidates include
11 the following:

12 (1) The communication clearly identifies one or more candidates;

13 (2) The timing of the communication coincides with the campaign;

14 (3) The communication targets voters in a particular election;

15 (4) The communication identifies one or more candidate's position on a public policy issue and
16 urges the reader or viewer to take action, including calling the candidate to support or oppose the
17 candidate's position;

18 (5) The position of one or more candidates on the public policy issue has been raised as
19 distinguishing these candidates from others in the campaign, either in the communication itself or in
20 other public communications;

21 (6) The communication is not part of an ongoing series of substantially similar advocacy
22 communications by the organization on the same issue; and

23 (7) Any other factors the Executive Director deems relevant.

24 Within three business days of the date the request for a determination is received, the Executive
25 Director shall make his or her initial determination.

1 *Within one business day of the date that the Executive Director makes an initial determination,*
2 *any candidate for Mayor or the Board of Supervisors may submit to the Executive Director a request*
3 *that the Ethics Commission review the Executive Director's initial determination.*

4 *Within one business day of receiving the request, the Executive Director shall notify each*
5 *Commissioner of the candidate's request.*

6 *If within one business day of the Executive Director's notice, two or more members of the*
7 *Commission inform the Executive Director that they would like to review the initial determination, the*
8 *Executive Director shall schedule a meeting of the Commission on a date that occurs within one week*
9 *of the Commissioners' requests. If three members of the Commission vote to overrule the Executive*
10 *Director's initial determination, the Commission shall make a final determination based on the factors*
11 *set forth above.*

12 *If no candidate requests review of the Executive Director's initial determination, if a request is*
13 *made and two or more members of the Commission do not request to review the initial determination,*
14 *or within one week of two members of the Commission requesting to review the initial determination, at*
15 *least three members of the Commission do not vote to overrule the Executive Director's initial*
16 *determination, the Executive Director's determination shall become final.*

17 *The Executive Director shall determine whether to lift the Individual Expenditure Ceilings of*
18 *each candidate for Mayor or the Board of Supervisors pursuant to Subsections (a) and (b) of this*
19 *Section within one business day of a final determination.*

20 **SEC. 1.158. IMPLEMENTING REGULATIONS; FORMS.**

21 *Pursuant to Charter Section 15.102, the Ethics Commission shall adopt regulations to*
22 *implement this Chapter. The Ethics Commission shall also specify the form and content of all forms and*
23 *statements required to be filed under this Chapter.*

24 **SEC. 1.160. NO LIMITATION OF CANDIDATE LIABILITY.**

1 ~~Nothing in this Chapter shall operate to limit the candidate's liability for, nor the candidate's~~
2 ~~ability to pay, any fines or other payments imposed pursuant to administrative or judicial proceedings.~~

3 Section 3. The San Francisco Campaign and Governmental Conduct Code is hereby
4 amended by adding Sections 1.109, 1.143, 1.171, and 1.175, to read as follows:

5 SEC. 1.109. RETENTION OF RECORDS.

6 (a) All candidates and committees that are required to file statements prescribed by this
7 Chapter shall maintain detailed accounts, records, bills, and receipts as necessary to prepare those
8 statements. Each candidate or committee shall retain for a period of four years detailed information
9 and original source documentation supporting those statements. The Ethics Commission may by
10 regulation describe the information and documentation required to be retained for each type of
11 statement.

12 (b) Within ten business days of a request by the Ethics Commission, a committee shall provide
13 the Ethics Commission with any documents required to be retained under this Section or state law,
14 including but not limited to California Code of Regulations, Title 2, section 18401 and any subsequent
15 amendments, modifications or administrative or judicial interpretations of that regulation. When the
16 Ethics Commission requests documents under this subsection, it shall provide the committee with the
17 reasons for the request in writing.

18 SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.

19 This Section shall apply only if the Ethics Commission has certified that at least one candidate
20 for Mayor or the Board of Supervisors is eligible to receive public funds under this Chapter.

21 (a) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate for
22 Mayor to an amount equal to the sum of the Total Opposition Spending against that candidate and the
23 highest level of the Total Supportive Funds of any other candidate for Mayor if such amount is greater
24 than \$1,475,000, provided that the Executive Director may adjust a candidate's Individual Expenditure
25 Ceilings only in increments of \$100,000.

1 (b) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate for
2 the Board of Supervisors to an amount equal to the sum of the Total Opposition Spending against that
3 candidate and the highest level of the Total Supportive Funds of any other candidate for the same office
4 on the Board of Supervisors if such amount is greater than \$143,000, provided the Executive Director
5 may adjust a candidate's Individual Expenditure Ceiling only in increments of \$10,000.

6 (c) No later than the second business day after a statement is filed pursuant to Section 1.152
7 (a)(3) or (b)(3) of this Chapter, the Executive Director shall determine whether the communication
8 supports or opposes one or more candidates.

9 Factors the Executive Director shall use to determine whether the communication supports or
10 opposes one or more candidates include the following:

11 (1) whether the communication clearly identifies one or more candidates;

12 (2) the timing of the communication;

13 (3) the voters targeted by the communication;

14 (4) whether the communication identifies any candidate's position on a public policy issue and
15 urges the reader or viewer to take action, including calling the candidate to support or oppose the
16 candidate's position;

17 (5) whether the position of one or more candidates on a public policy issue has been raised as
18 distinguishing these candidates from others in the campaign, either in the communication itself or in
19 other public communications;

20 (6) whether the communication is part of an ongoing series of substantially similar advocacy
21 communications by the organization on the same issue; and

22 (7) any other factors the Executive Director deems relevant.

23 (d) Within one business day of the date that the Executive Director makes a determination under
24 Subsection (c), either the candidate(s) identified in the communication or any candidate seeking the
25 same City elective office as the candidate identified in the communication may object to the Executive

1 Director's determination. The Executive Director shall respond to any objection within one business
2 day of receiving the objection.

3 (e) Within one business day of the Executive Director's response, either the candidate(s)
4 identified in the communication or any candidate seeking the same City elective office as the candidate
5 identified in the communication may submit to the Executive Director a request that the Ethics
6 Commission review the Executive Director's determination. Within one business day of receiving the
7 request, the Executive Director shall notify each Commissioner of the candidate's request.

8 If within one business day of the Executive Director's notice, two or more members of the
9 Commission inform the Executive Director that they would like to review the determination, the
10 Executive Director shall schedule a meeting of the Commission on a date that occurs within one week
11 of the Commissioners' requests. If three members of the Commission vote to overrule the Executive
12 Director's determination, the Commission shall make a final determination based on the factors set
13 forth above.

14 (f) If no candidate objects to the Executive Director's determination, if no candidate requests
15 review by the Commission of the Executive Director's determination, if a request is made and two or
16 more members of the Commission do not request to review the determination, or within one week of
17 two members of the Commission requesting to review the Executive Director's determination, at least
18 three members of the Commission do not vote to overrule the Executive Director's determination, the
19 Executive Director's determination shall become final.

20 The Executive Director shall determine whether to adjust the Individual Expenditure Ceilings of
21 each candidate for Mayor or the Board of Supervisors pursuant to either Subsection (a) or (b) of this
22 Section within one business day of a final determination.

23 SEC. 1.171. ISSUANCE OF SUBPOENAS.
24
25

1 The Ethics Commission, including its Executive Director, may issue subpoenas in furtherance of
2 its duties under the Charter including, but not limited to, audits of committees and enforcement of the
3 provisions of this Chapter.

4 SEC. 1.175. IMPLEMENTING REGULATIONS; FORMS.

5 Pursuant to Charter Section 15.102, the Ethics Commission shall adopt regulations to
6 implement this Chapter. The Ethics Commission shall also specify the format and content of all forms
7 and statements required to be filed under this Chapter.

8 Section 4. Operative Date.

9 The foregoing amendments to the Campaign & Governmental Conduct Code shall
10 become operative on January 1, 2010.

11
12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

14 By:

15 ANDREW SHEN
16 Deputy City Attorney
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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

HELEN S. STUDLEY
CHAIRPERSON

Date: August 4, 2009

JAN J. HARRIMAN
VICE-CHAIRPERSON

To: Supervisor Chris Daly

EMI GUSUKUMA
COMMISSIONER

From: John St. Croix, Executive Director

EILEEN HANSEN
COMMISSIONER

Re: Agenda Item V Transcript, July 13, 2009 Commission Meeting

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

At its July 13, 2009 regular meeting, during consideration of your proposed legislation to amend the Campaign and Governmental Conduct Code to bar City officers and employees from soliciting donations to nonprofit organizations that fund City departments from persons who have business with those departments, the Ethics Commission unanimously voted to send the legislation to you with an attached transcript of Commissioner and public comments on the agenda item. The Commissioners thought that these comments would be useful as you pursue passage of this measure.

Pursuant to that vote, please see the attached transcript of Agenda Item V from that portion of the July 13, 2009 Ethics Commission meeting.

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Transcript of Agenda Item V, July 13, 2009

Agenda Item V: Consideration of amendments to create a new Chapter 5 in Article III of the San Francisco Campaign and Governmental Conduct Code

Commissioner Harriman: When I read through this proposed ordinance, the first question I had is: what problem does this address? Without anyone here from Supervisor Daly's Office it doesn't look like we're going to get an answer to that. Whatever that problem is – this is very overbroad. The letter dated July 13, 2009 that we received in here, put in writing some of the things I had been thinking about. I had a bunch of parade of horrors, but I won't bore you with them because I think this letter does it. There may be a problem Supervisor Daly is trying to address and it may be worth addressing but I just don't think it's here in this ordinance. It's just too overbroad. My suggestion is that we send this back to him and he tailor this to whatever problem he perceives and have him come back to talk to us about that.

Commissioner Gusukuma: I would echo Commissioner Harriman's thoughts and really let's just focus here on the penalties. I mean we're talking here about criminal penalties so if it's not going to be more narrowly tailored I don't think it's going to work. So if he's going to come or if he's going to send a staffer next time around I'd really like to have him address that particular piece.

Commissioner Ward: My question would be: what's the likelihood since he doesn't need the Ethics Commission's approval? What's the likelihood that he'll actually send someone back unless we send it back with comments or actually reject it? So I would be more in favor of taking some affirmative action to state what our position is as opposed to sending it back without comment.

Commissioner Hansen: My position would be that in general I support the thrust of this legislation. I know this came up as an issue in the past when it came to light, I believe we received word of this at some point in the past, that there was a City worker who held dual roles as someone who handled development issues and also as a director of a nonprofit that benefitted City Planning. I was concerned about that issue at the time. I know that this has come up with another nonprofit that supports a City department. So I think it's an attempt to get a handle on a problem that has existed that hasn't been discussed a great deal. I would support Commissioner Ward's suggestion; it certainly sounds like we're divided and I guess I would like that to go back to Supervisor Daly because I think that the issue, while I have a difference of opinion with other Commissioners, I think it warrants a discussion to flesh that out a bit and I would like to do that here if we can.

Public Comment:

Kathy Lawhun, Chief of the Main Library: The Friends of the San Francisco Public Library have been a great partner to the Library and they do fund activities of the Library. They allow us to expand our summer reading program, have more exhibits, and more adult programming. They help with training with our staff and many other activities. But the portion that they do raise for those activities is a very, very small part of our budget. One of their biggest contributions is the Branch Library Improvement Program where we are building six new libraries and renovating 18 branches. The Friends of the Library are raising money for furniture, fixtures, and equipment, and we would not be able to be doing this amount of renovation and building new buildings without the donations that are coming through the Friends to help with these areas.

The Library Administration is very concerned that we would be prohibited or feel very constrained from attending the opening or closing of these branch libraries, and that if we were asked to come to a fundraiser to answer questions about the Library, it would be seen as soliciting funds; or if we're thanking the Friends at any large gathering that that would be endorsing putting money into the Friends. We just feel that we could inadvertently say something that could be construed as soliciting and then we could be facing these kinds of penalties.

Also our front line staff is asked many times a day "where can I give money for various things?" and though some things we do have come into our Library budget many things go through our Friends group. So would they be subject to some kind of penalty? So we really feel that if we could clarify with soliciting means, and you do have an amendment that we worked with the City Attorney on, that it would at least clarify, if this goes forward, what it means to solicit a request. So thanks and praise; we would really like to be able to do that for any group that helps us raise money. That's why we're suggesting this clarification. Phil Ginsburg, our new Rec and Park director, at the Department Heads meeting today, did alert all the other City Departments about this; some of them were not aware that it was in front of you today. So when it does go to the Rules Committee, if people are not here to speak today, I'm sure other people will speak at that meeting. So I just wanted to make sure that you know that not everybody could make it tonight.

Commissioner Hansen: I know that the Friends of the Library has been a great friend to the Library and raises funds and offers support as you articulated. I certainly understand that this is a concern and I know this issue has come up specifically with regard to the Friends of the Library and what its relationship is to the Library and whether that's appropriate or not.

I'm not sure if this is something you can answer but I'm trying to get a handle on why there would need to be a separate nonprofit that would support the Library. Can you just talk about what it would mean if the Friends of the Library didn't exist and if the Department itself was solely responsible for bringing in the dollars that it needed?

Kathy Lawhun: Well one thing we don't have the classifications of people who know how to do it so we'd have to figure out probably a new division that would figure out how to solicit funds. We do, on our own, put in for grants to the IMLF at the federal level through the state library so we do bring in some money ourselves. It would be just a whole other ramping up; we've never really gone after private donations so it would be a whole new experience I think. Myself, I would feel somewhat conflicting asking for money for the Main Library when maybe we needed a whole system. The Friends – we go directly to them each year and articulate what we need money for and then they get the people in place that know enough about those types of things and then solicit people themselves.

Chairperson Studley: You said that staff are often asked by members of the public about how they can help support the Library. If someone gives directly to the Library, or to the City for the Library, is that gift a tax deductible contribution?

Kathy Lawhun: Yes, and anything over \$100 has to be posted on our website and some people don't like their names on the public website. If they give to the Friends they can stay anonymous or just within the Friends.

Chairperson Studley: The legislation that has been proposed to us has an element that says, not simply that any solicitation or appreciation or fundraising is barred, but only if the officer knows or has reason to know that the person you're soliciting does business with the department. But that seems not to make you feel comfortable that you could do it, so I would just be interested in you addressing that element of it specifically. Because it doesn't go to any activity with a support group. It is, well, very broad and perhaps, likely overbroad, it is trying to separate asking for support from the Library from dealing with vendors or people who are business people who deal with the Library.

Kathy Lawhun: Well I know just on the Friends board there are some accountants, lawyers, some construction people, but we wouldn't know that necessarily when we would come before them and at these fundraisers – we don't know who is there. It could be a contractor that is up for the next branch Library but we wouldn't know that and if we said anything that made it seem that we were going towards one or the other – this is what we really wanted – and they specialized in this specific thing, then I think that we could be held accountable and that's what I would worry about.

Chairperson Studley: Or even if you didn't make the particular pitch, simply if they were participating and you were asking for their money at a nice lunch, that would put you within the legislation.

Anne Wintroub, Friends of the San Francisco Library: To start off with some things that were just brought up before I get into my more general points, when you think of where someone might be called into jeopardy, or according to this legislation, criminal position, just a scene for you: at one of our new branch Library openings, we have hundreds and maybe thousands of

people attending these parties. They are terrific community events and Luis Herrera, and many other Library officials wish to thank people from the community who have been involved in fundraising in the community. They will thank Friends of the Library, and of course without knowing who those hundreds and thousands of people are in the audience, it would create a perhaps drastically chilling effect on anyone who is speaking publicly at those events.

So to get to my more general comments, as Kathy said we are working in each and every community in San Francisco not only to raise funds to furnish the Library – when the initial bond passed that funded the branch improvement program back in 2000, it did not include money for furniture, fixtures and equipment. Therefore, our new libraries that we are rebuilding or building fresh everyday would be absolutely barren inside. So we make sure that all of these libraries have the computers, have the furniture, have all that they need to be the amazing thriving community centers that they are.

What we are also doing is organizing communities – and Commissioner Hansen to go to your question as well – one of the things that we bring to the Library in addition to funds is that we bring new people to the Library in the thousands in each and every neighborhood. I don't want to throw too many statistics your way but when we look at people donating to our neighborhood Library campaign – and those are the people who are funding the furniture, fixtures and equipment – I believe it's nearly 75% of those people who have never given to the Library before. They are coming in specifically to fund their branch Library. And they're bringing in their friends in and they're making the libraries the vibrant community centers that they are today.

So at Friends of the Library we wholeheartedly feel this legislation is very dangerous and that it will create a chilling effect for not only those serving on our board but anyone who volunteers. We work with hundreds of volunteers, the Library has many volunteers, and this would be an impediment towards people working to better the civic institutions that we all treasure. As we all know, we are in a time of economic crisis and we need to be focusing on creating innovative and responsible public-private partnerships that benefit the City agencies that we all care so passionately about. Thank you for hearing our very very serious concerns about this legislation.

John Buchanan, Director of Fine Arts Museums of San Francisco: Thank you for reviewing this legislation. We appreciate the technical, legal amendment that I believe Mr. Givner has distributed to you that addresses and acknowledges the exclusive jurisdiction of the charitable trust departments in the City of San Francisco under the Charter. Those would include the Fine Arts Museums of San Francisco, the Asian Art Museum, and the War Memorial Building. If you look back at the history of the Fine Arts Museums you will see that we were founded by – actually two – charitable donations and we continue to maintain and exist through charitable contributions towards our buildings. Of course the new De Young was built exclusively by private sector money for the maintenance, for the security, and for the teaching from the museum's own art collections. Thank you very much for reviewing the legislation and also for

looking at this charitable trust department language that Mr. Givner has put forward to you and I think also shared with Supervisor Daly's office.

Luis Cancel, Director of Cultural Affairs for San Francisco Arts Commission: I'm sure that Supervisor Daly has the best interest of the City at heart and is trying to encourage and promote a very transparent and even field of operations out there, but the Arts Commission, unlike the Library or Rec and Park, actually is even more adversely affected by this proposed legislation than those entities. Rec and Park and the Library have the benefit of a Friends society going out there and raising money on behalf of programs augmenting the public resources applied in those areas. The Arts Commission does not. Therefore, since I've arrived, for the programs of the Arts Commission which are all very valuable but underfunded, this would absolutely prohibit us from doing any additional efforts to raise additional private sector donations for our programs. I will give an example.

The art collection for the City numbers in about 3,000 objects and is valued at anywhere between \$50 and \$80 million. The appropriations for maintaining that collection, in other words conservations funds appropriated every year, is about \$15,000. And most of that disappears with the first few graffiti abatements that we have to undertake when one of our sculptures in a prominent public place is tagged. So we have entered into an understanding with the San Francisco Arts Dealers Association to do fundraising to help us raise money, to help us raise additional money to help conserve the collection. And we're about to launch a campaign and so forth; this legislation would prohibit me and my staff from being able to talk and effectively pitch this fundraising effort. So we really do see this as well intentioned but absolutely having unintended consequences of undermining our ability to fundraise from the private sector.

I think when you look at the current fiscal year and the next few years going forward, the City and the public sector resources that we have are all going to be very challenged. It's really incumbent on some of our programs and departments to be able to try to convince those that can contribute and care passionately for their particular sectors, to go out there and raise some money. If we're not able to do that, as this legislation would be a chilling effect – because who is going to stop and think about all the legal ramifications associated with soliciting donations – that's the end of the story. The moment that this comes up, and you have to factor it into a development campaign, that would be very chilling. We're here to plead that although this is well-intentioned, we hope this is re-thought.

Commissioner Hansen: I have a question with regard to your comment that there isn't a "Friends of the Arts Commission" as there is with Friends of the Library, or a body such as SPUR that supports the Planning Department. As I read the language in the background of this legislation, it specifically talks about barring the City officer or employee from soliciting or requesting a gift or donation from any person to a nonprofit group. So can you just talk a bit about how you raise funds? In the case of the Library, I understand the intent of the legislation is to separate the officers of the Library from soliciting donations to the Friends of the Library for example. And

one of the concerns is where someone might be a contractor involved with the Library or interested in soliciting a contract with the Library. So to ask that person for a gift to the Library when that person might also be sitting on a contract, would be of concern.

In your case, there isn't a nonprofit that specifically supports the Arts Commission, so how do you do your private fundraising? Are you covered by this legislation that seems to specifically focus on solicitations that would go to a nonprofit as opposed to solicitations that would come into the Arts Commission?

Luis Cancel: First of all, down the road – it's been part of our planning exercise that we're undertaking right now – we're trying to see how we can establish a "Friends of the Arts Commission" and secondly, from what I read of this legislation, it prohibits the City employee from being able to solicit from anybody that might have some business with our agency. We were involved with construction, we're involved with maintenance of buildings, we give grants, we commission art. I mean there's so many different ways that people can be engaged with our commission that it really then becomes a guessing game of whether we're in violation or not.

Commissioner Hansen: If you're attempting to create a "Friends of the Arts Commission" then I would see you definitely fitting under this. I'm not sure that you are currently but I appreciate that information.

Dennis Kern, Director of Operations at Recreation and Parks Department: We recently learned of this legislation proposal and the Rec and Park Department has several concerns with it; particularly so because we as a Department are seeking increased partnership relationships throughout the City. As you may know we are one of the City's largest landowners with all of the 240 plus parks that we have throughout the City. Many of them have a "Friends of" group and we also have well-known partners in the Neighborhood Parks Council and the San Francisco Parks Trust. The legislation as proposed appears to us to be sufficiently vague and overly broad to be at least discouraging to new forming partnerships or continuing with the current partnerships that we do have with the Department.

We as a Department wish to be more welcoming and encouraging of donations and partnership support; which this proposed legislation seems to – I believe the word used here this evening – have a chilling effect on that type of endeavor. When we read the legislation, in defining what having business with the Department constitutes, it includes even obtaining a permit. For the Rec and Park Department that could be something as simple as obtaining an event permit to use a park for an event of some sort, even as mundane as having a picnic permit for a smaller group of about 25 people. A lot of the groups, overwhelmingly most of them nonprofits, will come to us and seek a permit, we would give it to them and perhaps they would be raising money for their own park or the Department as a whole and would themselves or ourselves be in violation of this legislation. So in summary we believe that as proposed, the legislation is at least

challenging the type of civic engagement, and for us in particular, the kind of park stewardship that we are seeking to increase and engender throughout the City.

Meredith Thomas, Executive Director of Neighborhood Parks Council: I want to echo the concerns that my colleague at the Recreation and Parks Department, Dennis Kern, just shared with you regarding this legislation. I would add in addition to being overly broad and certainly something that would deter participation, it's also pretty dicey. I support Commissioner suggestion that you not only send it back, but send it back with some specific comment because I am concerned that the value of this Commission and the input you might have on this legislation, might not be valued if it doesn't leave here with recommendations.

Essentially, the Neighborhood Parks Council advocates for a superior recreation and parks system in every neighborhood in San Francisco and the only way our work can be actionable is when we work at a grassroots level addressing parks on an individual basis and insuring that the way that the neighborhood would like to see their park maintained and utilized and activated, is what happens. The only way we can do that is by having a close relationship with the Recreation and Parks Department to make sure that what the community wants to do can be handled and managed by the Recreation and Parks Department, and that the Recreation and Parks Department recognizes the differences we have between our neighborhood parks.

To create an environment where these "Friends of" groups are afraid to work more closely with their elected officials is not a good idea. We need to keep the folks who represent us, who work on behalf of the City and among the City family, linked closely to these community organizations to share vision, to share the burden of getting these parks improved and activated, and this legislation would undermine relationships people have worked very hard to establish with members of the City family and with the Commission. Also, it's an important thing to note that as a grassroots park group is establishing itself, one of the ways it can have a sense of legitimacy is to have close partnerships at the City level.

A lot of private entities that are funding park-related projects want demonstrated frameworks in place. They want to know that the City supports the projects, they want letters of support for grant applications from these park groups, to know that the community isn't running down a rabbit hole, but is in fact proposing a capital improvement that the City is supporting. I'm concerned how that relationship will work moving forward. Funders need to know that if they are investing in a capital improvement – that if they are going to be renovating a playground – that playground will actually be renovated, and that it will be renovated on the timeline specified, and that the Department has a role in the process. So everything from the General Manager not being able to stand up at our Christmas party and remind folks to make a contribution to the Neighborhood Parks Council at year end to ensure that our work continues, on to major capital investments that we partner closely with the Department on, could be affected by this. So I would strongly recommend that you do your best to send this out of here asking Supervisor Daly exactly what he was planning with this.

Commissioner Ward: I think we ought to send it back with some type of comment perhaps indicating some of what we've heard here and the types of groups we've heard. I'd describe what we've heard as a prophecy of unintended consequences. If we characterize it that way it may be that Supervisor Daly understands all of this and in spite of that is proposing this legislation – but that's the way we find that out.

Commissioner Harriman: What I think would be the easiest and most helpful thing to do is – we have a transcript – and send the portion of the meeting that has to do with this discussion.

Chairperson Studley: That was exactly my thought, to make sure he understands the concerns from some of these entities and the kinds of questions we had initially. If there is a problem or an issue, it would be helpful for him to be clear and specific, and to look at whether the Statements of Incompatible Activities cover the behavior that he's concerned with, and we would be happy to engage with him if he would like to refine this to get at something that is a palpable problem. Like Commissioner Hansen, I do remember some questions to which this might be addressed but without joining the issue I don't know if it is and I'm convinced that there are potentially pernicious concerns that outweigh my speculations. But if there is a there there, we would be open to hearing about it in a more tailored fashion if there is one but in this forum we are concerned and would like him to hear the comments that we heard.

Commissioner Hansen: I would concur. I think the portion of this meeting should go directly to Supervisor Daly. In addition, I would like to make a stronger request that he consider coming to our next meeting so that we could have this fuller discussion.

Commissioner Harriman: I would move that we send this legislation back to Supervisor Daly and send with it that portion of the transcript of tonight's meeting that will tell him what the concerns were both from people from around the City, from various Friends groups, and from the Commissioners.

Chairperson Studley: Would you take as a friendly amendment, Commissioner Hansen's suggestion?

Commissioner Harriman: He would read that as part of the transcript and he can come or not.

Commissioner Ward: Second.

Chairperson Studley: Any public comment? (No further public comment.)

Motion passes unanimously (5-0).



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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: August 3, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

By: Mabel Ng, Deputy Executive Director

Re: Contribution Limits

San Francisco Campaign and Governmental Conduct Code section 1.114 imposes a \$500 per contributor limit on contributions to candidates for local office. The law has two specific limits on contributions to candidates. First, under section 1.114(a)(1), no person other than a candidate may make, and no candidate campaign treasurer may solicit or accept any contribution that will cause the total amount contributed by the person to the candidate to exceed \$500. Second, section 1.114(a)(2) also imposes a total contribution limit such that no person may make contributions that exceed \$500 multiplied by the number of City elective offices to be voted on in an election. Section 1.114(d) also provides that contributions from "affiliated entities" must be aggregated for the purposes of the \$500 contribution limit. This memo provides a brief history of the City's contribution limit for candidates and poses questions that the Commission may wish to consider in determining whether the limit should be changed.

Brief History

In 1973, the Board of Supervisors first adopted a contribution limit of \$500 to local candidates. The City subsequently increased the contribution limit to \$750 in 1981 and \$1,000 in 1983. In 1986, the voters, through Proposition F, reduced the contribution limit from \$1,000 to \$500. In addition, until the City implemented ranked-choice voting for local candidates in November 2002, a candidate's supporters could make an additional \$250 contribution to support the candidate in a run-off election.

In November 1995, the voters passed Proposition N, creating a two-tiered contribution limit. Candidates who accepted the City's expenditure limit could continue to receive \$500 per contributor, plus \$250 for a runoff election. But candidates who did not accept the expenditure limit could receive only \$150 per contributor, plus \$100 for a runoff.

In November 2000, the voters passed Proposition O, which eliminated the two-tiered system and adopted an across-the-board \$500 limit, plus \$250 for runoffs. (Proposition

O also added a new limit on the total number of candidate contributions any contributor could make: \$500 multiplied by the number of City elective offices to be voted on in any City general election.)

Ethics Commission Consideration of Contribution Limits in 2005

In 2005, the Ethics Commission considered possible amendments to the Campaign Finance Reform Ordinance ("CFRO"), including adjustments to the candidate contribution limits. At its meeting on September 12, 2005, the Commission discussed the idea of raising, maintaining or lowering the \$500 limit, or adopting regulations to provide for changes in the contribution limit according to the Consumer Price Index, but made no decisions about the matter.

The Commission revisited the issue at its meeting the following week, on September 19. In advance of that meeting, staff's memo provided the following information about contribution limits:

* * *

A. Contribution limits

1. Section 1.114 (a) – (c): Contribution limits

Section 1.114(a) limits contributions to candidates for City elective office. A contributor may give a total of \$500 to any one candidate; a contributor may give to all candidates a maximum total of \$500 multiplied by the number of City elective offices to be voted on in an election. Section 1.114(c) restricts contributions to committees. A contributor may give a total of \$500 to any committee that makes expenditures to support or oppose a candidate for City elective office and a maximum of \$3,000 to all committees in a calendar year. The voters adopted the current limits in 2000, following extensive hearings before the Commission on the campaign finance system and the cost of campaigns.

Under section C3.699-11(8) of the Charter, the Commission has the responsibility to "annually adjust any limitation and disclosure thresholds imposed by city law to reflect any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions." Although CFRO addresses the adjustment of spending limits, and the Commission has adopted a regulation for adjusting the spending limits, CFRO does not address the adjustment of contribution limits.

If the Commission were to adjust the limits according to changes in the CPI, using the formula already adopted for spending limits, and rounding to the nearest \$100, the limit to candidates would be adjusted to \$600, the aggregate limit to \$600 multiplied by the number of City elective offices up for election, the individual committee limit to \$600 and the aggregate committee limit to \$3600 [footnote omitted]

There may be countervailing reasons not to raise the contribution limits even if the CPI suggests an increase. Campaign finance disclosure statements filed with the Commission demonstrate that candidates are able to raise substantial funds at the \$500 limit, and indeed often raise in excess of the voluntary spending limits. Candidates are able to mount effective campaigns, and staff does not have any evidence that the limit is too low to allow candidates to get their message out. For those candidates seeking public financing, a \$500 limit on contributions has not been prohibitive. One of the difficulties candidates have had is the opposite problem -- raising enough money to qualify. According to the Commission's Report on San Francisco's Limited Public Financing Program for the November 2, 2004 election, the average of itemized contributions received by participating candidates was \$173 in 2002 and \$212 in 2004; the average itemized contributions received by nonparticipating candidates was \$295 in 2002 and \$277 in 2004. At the same time, to many voters, contributions higher than \$500 continue to present concerns about possible corruption or the appearance of corruption. *For these reasons, staff recommends retaining the \$500 contribution limit.*

Question:

Should the Commission make changes related to the contribution limits?

1. Increase the contribution limits;
2. Adopt regulations to provide for changes according to changes in the Consumer Price Index; or
3. Maintain the \$500 contribution limit.

* * *

When the Commission discussed the matter, it decided to accept staff's recommendation and voted 4-0 to re-adopt the \$500 contribution limit as well as the contribution limits in subsections (b) (run-off elections) and (c) (contributions to committees making expenditures related to candidates) of section 1.114.

When staff held its recent interested persons meetings on recommended changes to the CFRO, staff proposed the following language under section 1.114(a)(3): "The Ethics Commission is authorized to adjust annually by regulation the contribution limits imposed by this Section to reflect changes in the Consumer Price Index." This language, now stricken from staff's proposal, sought to implement the Charter's mandate that the Commission "annually adjust any limitation and disclosure thresholds imposed by city law to reflect any increases or decreases in the Consumer Price Index," and that "[s]uch adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions." See Charter § 3.699-11(8). At one of the meetings, staff received comments suggesting that if the Commission were to adjust the limit, the Commission should amend CFRO to make the adjustments mandatory and automatic. That change would mirror the Political Reform Act, which requires the Fair Political Practices Commission ("FPPC") to adjust state contribution limits biennially according to changes in the Consumer Price Index, rounding to the nearest \$100. See Cal. Gov't Code § 83214; 2 C.C.R. §

18544. Because the adjustment would be automatic, officeholders and candidates could not easily influence the amount of the contribution limit.

If the Commission were to adjust the contribution limit using a formula similar to the FPPC's and using the annual Consumer Price Index for the San Francisco Bay Area in 2005, when the Commission last re-authorized the \$500 limit, the new contribution limit, rounded to the nearest \$100, would be \$600.

According to the Commission's recent reports on the 2006, 2007 and 2008 elections, the average of itemized contributions received by publicly financed candidates was \$290 in 2006 and \$224 in 2008; the average itemized contributions received by non-publicly financed candidates was \$225 in 2006, \$341 in 2007, and \$288 in 2008.

The contribution limit for City-wide offices in Los Angeles is \$1,000 for the primary and \$1,000 for the general election; for City Council races, the contribution limit is \$500 for the primary and \$500 for the general election. The contribution limit for San Diego is \$500 in the primary and \$500 in the general election.

If the Commission wishes, it may decide to: (1) keep the \$500 limit; (2) raise the limit for inflation starting in 2005; (3) raise the limit for inflation starting in 2000; (4) raise or lower the limit to another amount; (5) adopt alternative limits for different City offices.

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EXECUTIVE DIRECTOR'S REPORT TO THE SAN FRANCISCO ETHICS COMMISSION For the Meeting of August 10, 2009

1. FY 09-10 Budget.

The final numbers for the Ethics Commission for this year appear to be an overall budget of \$4,025,406, which includes the operating budget and the annual contribution to the Election Campaign Fund. The operating budget portion is \$2,277,668. This is slightly more than a 3% increase over last year. Please note that these numbers are based on office calculations; the final printed budget numbers may be slightly different.

During final consideration of the budget, the Board of Supervisors took two actions that impacted the balance of the Public Finance Fund. First, they restored \$1,283,858 of the funds that had previously been de-appropriated by the Mayor's office. Next, they placed \$1,043,160 of funding into a reserve, which can be used either by the Public Finance Fund or by the City's Convention Facilities managers (either would require a supplemental appropriation). The Mayor signed the budget on Tuesday, August 04, 2009.

2. Investigation and enforcement program.

Since its last regular meeting on July 13, 2009, the Commission has received zero new complaints. There are currently 13 complaints pending in the Commission's jurisdiction. Staff member Paul Solis has accepted a position as Investigative Counsel with the Office of Congressional Ethics in Washington, D.C. and he will be leaving the Commission in August. Mr. Solis has been a dedicated and diligent colleague, and we wish him the very best.

Category	# of Complaints
Campaign Finance	5
Conflict of Interest	3
Governmental Ethics	1
Lobbyist Ordinance	2
Campaign Consultant Ordinance	0
Sunshine Ordinance	2
TOTAL	13

3. Campaign finance disclosure program.

a. Filing deadline. The most recent filing deadline was July 31, 2009 for the First Semi-Annual statements, which covers the reporting period beginning the day after the closing date of the last statement filed, or January 1, 2009 through June 30, 2009. Staff

sent a courtesy notice, as well made phone calls, to filers to remind them of the upcoming filing deadline and to inform them about recent updates to FPPC rules and regulations.

Staff has conducted an initial analysis of campaign finance filings received for this deadline. As of August 4, staff has identified 24 filers who have not yet turned in their required statements. The analysis showed that from July 1 through August 4, the Commission received 410 campaign finance filings (141 electronic filings and 269 paper filings). Staff continues to process campaign statements. The next filing deadline is September 24, 2009 for the First Pre-Election statement.

b. Collection of late filing fees and contribution forfeitures. Campaign finance collections as of August 4th for FY 09-10 totaled \$3,038, based on filings made during previous fiscal years. By comparison, campaign finance collections as of August 4th in prior fiscal years were as follows:

Fiscal year	Collections by Aug. 4	Total collections in FY
02-03	\$20	\$49,322
03-04	\$1,812	\$51,607
04-05	\$2,870	\$199,524
05-06	\$7,304	\$85,390
06-07	\$14,443	\$119,814
07-08	\$30,917	\$65,035
08-09	\$3,773	\$48,673

The \$3,038 amount is based on prior assessments as follows:

FY when assessed	Amount collected in 09-10
06-07	\$480.00
07-08	\$253.75
08-09	\$2,303.76
Total:	\$3,037.51

FY 08-09 waivers, as well as waivers from past years provided for comparison, are as follows:

FY when assessed	Amount assessed	Amount waived during FY
04-05	\$907,069	\$683,086
05-06	\$546,859	\$342,901
06-07	\$181,831	\$50,347
07-08	\$217,444	\$159,880
08-09	\$322,529	\$107,176
09-10	\$1,060	\$0

To date, the outstanding balance of late fees assessed from the current and previous years, including \$72,281 in fees that have been referred to the Bureau of Delinquent Revenues, is \$214,097, down from \$214,839 as last reported.

The current outstanding balance of contribution forfeitures assessed as a result of the defective reporting of contributor information and contribution limit violations is \$71,218, as was last reported. The \$71,218 amount consists of forfeitures from the 2005-2006 filing periods and does not include forfeiture assessments from the 2008 filing period. Staff continues to process requests for waiver of late fees and forfeitures. The individual late fees and forfeitures are listed below.

Late fees & Forfeitures – 8.4.09 quarterly update

Late fees – Table 1

#	Name	Filer ID	Current balance (in \$)	Status (blank = not yet past-due)
1	Ahsha Safai for Supervisor	1305708	400.00	Past-due (\$120); Waiver requested (\$280)
2	Bayard Fong for Board of Education	1290444	460.00	Waiver requested
3	Bayview Committee for Affordable Housing	1303906	175.00	Waiver requested
4	Bill Barnes For District 5	1265969	3,120.00	Collections
5	Bruce G. Windrem	PEN1188	30.00	Past-due
6	Bruce Wolfe for SF Community College	1307372	50.00	Past-due
7	California Nurses Association PAC	780657	3,370.00	Waiver requested
8	Calvin Louie for Community College Board	1228806	10.00	Past-due
9	Care Not Cash	1244505	5,331.00	Collections
10	Clinton T. Reilly & Affiliated Entities	490376	9,000.00	Waiver requested
11	Coalition to Elect Chris Jackson to Community College Board	1302351	3,050.00	Waiver requested
12	Coleman Action Fund for Children Committee	1311766	6,685.00	Waiver requested
13	Committee to Elect Eli M. Horn	1305634	760.00	Past-due (\$80); Waiver requested (\$680)
14	Committee to Elect M. Valle for Treasurer	1278937	5,525.00	Collections
15	Committee to Elect Rebecca Silverberg	1220430	21,086.00	Collections
16	Committee to Elect Vilma Guinto-Peoro Supervisor District #2	1291394	10.00	Collections
17	Committee to Keep MUNI Accountable - No on P	1309995	4,650.00	Waiver requested
18	Committee to Re-Elect Dr. Anita Grier	1243852	140.00	Waiver requested
19	Dana Walsh	PEN1249	60.00	Past-due
20	Edgar "David" Parker, Jr.	PEN608	200.00	Past-due
21	Elect Anthony Carrasco Sheriff	PEN1395	100.00	Past-due
22	Eric Mar for Supervisor	1302394	5,865.00	Waiver requested
23	Friends of Owen O'Donnell	1307894	45.00	Waiver requested
24	Housing Rights Association	1245525	100.00	Settlement payment schedule since 2006
25	James Ryan	PEN1293	100.00	Past-due
26	Jane Kim for School Board	1289332	245.00	Waiver requested
27	Janet Reilly	1276040	1,190.00	Waiver requested
28	Jaynry Mak for School Board	1311133	10.00	Waiver requested
29	Jill Wynns for School Board	961189	30.00	Past-due
30	Johnnie Carter for Community College Board	1226264	7,215.00	Collections (\$6,595); Past-due

#	Name	Filer ID	Current balance (in \$)	Status (blank = not yet past-due)
				(\$620)
31	Josh H. Wolf	PEN1391	180.00	Past-due
32	Joshua Kriesel	PEN1289	100.00	Past-due
33	Mak 06	1287595	490.00	Past-due
34	Micheas Herman	PEN788	100.00	Collections
35	Myrna Viray Lim for Supervisor	1256697	3,855.00	Collections
36	Myrna Lim for District 11 Supervisor	1306882	1,250.00	Past-due
37	Neighbors Against Traffic & Pollution – No on H	1300072	917.52	Payment schedule
	No on K, Committee Against Trafficking and Sexual Exploitation, Committee Against Proposition K	1310101	55.00	Waiver requested
39	No Military Recruitment in Our Schools - No on V	1308856	5,649.80	Waiver requested
40	Noe Valley Democratic Club	963103	3,625.00	Waiver requested
41	Omar Khalif for School Board	1287030	1,800.00	Past-due
42	Pat Lakey for Supervisor District 7	1255357	2,225.00	Waiver requested in 2004
43	People for Tony Hall	1298419	1,575.00	Payment schedule
44	Ramiro Maldonado, Jr.	PEN1291	100.00	Past-due
45	Re-Elect Milton Marks III	1266541	235.00	Waiver requested
46	Richmond District Democratic Club	882390	5,000.00	Waiver requested
47	Rick Hauptman	PEN1281	100.00	Past-due
48	Rodney Hauge	PEN593	100.00	Past-due
49	Rodney Hauge	PEN1084	100.00	Past-due
50	San Franciscans for Fair & Honest Government	1258209	4,659.22	Collections
	San Francisco Coalition for Responsible Growth - Political Action Committee	1306077	2,880.00	Waiver requested
	SF Forward sponsored by San Francisco Chamber of Commerce (formerly San Francisco Chamber of Commerce 21 st Century Committee)	891575	980.00	Waiver requested
53	San Francisco Tenants Union	PEN1367	1,060.00	
54	San Francisco Women's Political Committee	1243711	69,616.26	Waiver requested
55	SEIU Local 87	PEN951	14,350.00	Collections
56	Shawn Westcott	PEN1102	100.00	Collections
57	Steve Feinstein	PEN1279	50.00	Past-due
58	Sunset Community Democratic Club	901749	350.00	Waiver requested
	The Committee to End the War in Iraq	1309075	2,000.00	Waiver requested
59	Thomas D'Amato	PEN735	100.00	Past-due
60	Trevor McNeil for SFDCCC	1285604	100.00	Past-due
61	Walter D. Armer	PEN1287	100.00	Past-due
62	Yes on C, Alcatraz Conversion Project	1302041	3,432.00	Payment schedule
63	Yes on K, Committee United for Safety and Protection	1304971	160.00	Waiver requested
64	Yes on Proposition G San Francisco	1311102	140.00	Past-due
65	Yick Tsun Society, Inc.	PEN1078	7,550.00	Collections
	Total:		214,096.80	

Forfeitures – Table 2¹

#	Name	Filer ID	Current balance (in \$)	Status (blank = not yet past-due)
1	Alix Rosenthal for Supervisor	1287650	950.07	Waiver requested

¹ This table does not include forfeitures assessed from the 2008 reporting period.

#	Name	File ID	Current balance (in \$)	Status (blank = not yet past-due)
2	Bayard Fong for Board of Education	1290444	1,900.29	Waiver requested
3	Campaign for Paid Sick Days, Yes on Prop F	1289546	276.73	Waiver requested
4	Committee to Elect Dwayne Jusino Supervisor	1286609	300.00	Payment schedule
5	Committee to Re-Elect Dr. Dan Kelly	1289595	150.02	Waiver requested
6	Daly 06	1284226	1,850.08	Waiver requested
7	Dudum for Supervisor 2006	1287197	800.02	Waiver requested
8	Herrera 2005	1272195	1,200.00	Waiver requested
9	Hydra Mendoza for School Board	1290372	2,300.18	Waiver requested
10	SF Forward sponsored by San Francisco Chamber of Commerce (formerly San Francisco Chamber of Commerce 21 st Century Committee)	891575	9,440.03	Waiver requested
11	Truth on Prop H - Concerned Citizens Against Prop H, Sponsored by: Small Property Owners of San Francisco	1292084	25,050.12	Waiver requested
12	Yes on Proposition A, Let's Rebuild San Francisco's Schools	1290214	27,000.05	Waiver requested
		Total:	71,217.59	

c. Status of accounts to San Francisco Bureau of Delinquent Revenues (BDR). The following chart provides details on pending accounts referred to BDR:

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
1	Committee to Elect Rebecca Silverberg	1220430	Lucia Paulazzo	5/6/05			
2	Yick Tsun Society, Inc.	PEN1078	Florence Fang	8/16/05	\$7,550.00	\$7,550.00	\$7,550.00
3	SEIU Local 87	PEN951	Mike Garcia & Michael Baratz	8/25/05	\$14,350.00	\$14,350.00	\$14,350.00
5	Johnnie Carter for Community College Board	1226264	Johnnie Carter	6/16/06	\$9,520.00	\$7,095.00	\$6,595.00
7	Micheas Herman	PEN788	Micheas Herman	6/26/06	\$100.00	\$100.00	\$100.00
8	San Franciscans for Fair & Honest Government	1258209	Erik Howell	10/20/06	\$4,659.22	\$4,659.22	\$4,659.22
9	Myrna Viray Lim for District 11 Supervisor	1256697	Jia Jun Chen	4/27/07	\$3,855.00	\$3,855.00	\$3,855.00
10	Committee to Elect M. Valle for Treasurer	1278937	Manuel B. Valle	6/14/07	\$5,525.00	\$5,525.00	\$5,525.00
11	Shawn Westcott	PEN1102	Shawn Westcott	6/18/07	\$100.00	\$100.00	\$100.00
12	Committee to	1291394	Vilma	6/18/07	\$10.00	\$10.00	\$10.00

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
	Elect Vilma Guinto-Peoro Supervisor District #2		Guinto-Peoro				
13	Bill Barnes for District 5	1265969	Alix Rosenthal	1/3/08	\$3,120	\$3,120	\$3,120
14	Care Not Cash	1244505	Ronald Jin	2/29/08	\$5,331	\$5,331	\$5,331

d. Electronic filing. On April 30, 2009 staff provided 60 days' notice that committees subject to the electronic filing requirements under section 1.112(b) will be required to file FPPC Forms 461 (Independent Expenditure Committee and Major Donor Committee Campaign Statement) and 465 (Supplemental Independent Expenditure Report) in electronic format starting July 1, 2009. Electronically filed forms and data will be made available to the public on the Ethics Commission's web site. This new electronic filing requirement is in addition to the paper filing requirement. Forms 461 and 465 were added to the San Francisco Electronic Disclosure System (SFEDS) through the Commission's contract with Netfile.

4. Revenues report.

For FY 09-10, the Commission was budgeted to generate \$50,000 in revenues. As of August 3, 2009, the Commission received \$5,111 as summarized below. The figure represents collection of approximately 10 percent of expected revenues for FY 09-10.

Revenues Received as of August 3, 2009

Source	Budgeted Amount FY 09-10	Receipts
Lobbyist Fees	\$8,000	\$1,050
Other Ethics General	\$1,000	\$2
Campaign Finance Fines	\$22,000	\$2,399
Campaign Consultant Fees	\$15,000	\$600
Lobbyist Fines	\$1,000	
Statements of Economic Interests Fines	\$1,000	\$1060
Other Ethics Fines	\$1,000	
Campaign Consultant Fines	\$1,000	
Total	\$50,000	\$5,111

5. Public financing/Campaign finance audit program.

Staff is working on audits of candidates who received public financing in 2008. Staff is also preparing candidate and recipient committee training materials for the 2009 election season.

6. Lobbyist program.

As of August 1, 2009, there are 39 lobbyists registered with the Commission. Lobbyist revenues received in the 2008-2009 fiscal year totaled \$36,392: \$33,892 in lobbyist fees and \$2,500 in fines. In the 2009-2010 fiscal year, \$1,050 in lobbyist fees and \$150 in fines were collected, for a total of \$1,200. All registered lobbyist filed quarterly reports for the second quarter 2009 reporting period. The next filing deadline is October 15, 2009, for the third quarter 2009 reporting period.

Lobbyists on Behalf of the City

The San Francisco Sunshine Ordinance, S.F. Admin. Code Section 67.29-4, requires lobbyists who contract for economic consideration with the City to represent the City in matters before any local, regional, state or federal administrative or legislative body to file quarterly activity reports with the Ethics Commission. These persons and entities are referred to as "Lobbyists on Behalf of the City." Section 67.29-4 does not provide for any fine or monetary penalty for non-filers.

Staff discovered that no lobbyist had filed a report with the Commission since the first quarter of 2005. Staff contacted the lobbyist currently contracted by the Mayor's Office to advise them of their reporting requirements. Staff requested that the lobbyist complete all retrospective filings to bring them into compliance with the law. The lobbyist was unaware of the Sunshine Ordinance requirement but expressed willingness to fully comply with law. All filings will be due at the Commission by 5.00 p.m., August 17, 2009, which is the next filing deadline. The lobbyist has filed all State and Federal reports that are required by law.

Staff responsible for the oversight of the regular lobbyist program will administer this program. Further, staff requested that all other City departments advise the Commission if they independently contract with a lobbyist.

7. Campaign Consultant program.

As of August 4, 2009, twenty-one campaign consultants are active and registered with the Commission. \$650 in registration fees have been collected in the 2009-2010 fiscal year. The next quarterly report is due September 15, 2009. Staff will send reminder notices to all active campaign consultants two weeks prior to the deadline.

8. Statements of Economic Interests.

April 1 was the deadline for designated officers and employees to file their annual Statement of Economic Interests ("SEIs"). Staff continues to process incoming SEIs and Sunshine Ordinance Declarations, by logging them into a database and scanning them for upload to the Commission's website. A list of filers is viewable on the Commission's website.

The following table reflects annual statements filed as of August 4, 2009.

FORM	FILERS	TOTAL # OF FILERS
Statement of Economic Interests (SEI)	596	621

Upon review, the total number of filers dropped from 690 to 621 because staff determined that 69 annual filers left office in 2008 or earlier and are required to file Leaving Office SEIs instead of Annual SEIs.

On May 6, 2009, staff issued 136 non-filer notices. On June 8, 2009, staff issued 48 second non-filer notices to those who were unresponsive to the first notice. On July 8, 2009 staff issued third non-filer notices to 33 non-filers who were unresponsive to the past two notices. As of August 4, 2009, 83 non-filers informed us that they left office, 24 non-filers filed their annual SEIs, five informed us that they hold a position that is not required to file with the Ethics Commission, one filed at the wrong location and is in the process of forwarding the original to us, one informed us that the Annual SEI requirement does not apply because the filer recently assumed office, and 22 non-filers remain nonresponsive.

Enforcement staff continues to audit departments for SEI filing compliance for both 2007 and 2008 calendar years. Staff is also reviewing all SEIs filed with the Commission.

9. Outreach and Education.

On July 17 and 28, 2009, staff held interested persons meetings on possible changes to the Campaign Finance Reform Ordinance. The Commission will consider the proposals at its August 10, 2009 meeting.

Ethics staff continues to provide trainings on conflict of interest laws and the Statements of Incompatible Activities (SIA) to City departments. The following trainings are currently scheduled for 2009:

- Candidates' Training (Web Training Video): August 2009
- Non-Candidate Recipient Committee Training (Web Training Video): August 2009
- Building Inspection Commission, Access Appeals Commission, Board of Examiners and Unreinforced Masonry Building Appeals Board SIA Training: September 30

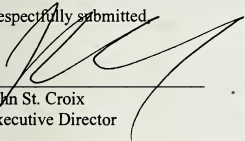
10. Statements of Incompatible Activities.

In response to both the May 26, 2009 and July 10, 2009 memos to all departments, boards and commissions requesting that they provide copies of advance written determinations (AWDs) and summaries of complaints filed under the 53 respective Statements of Incompatible Activities, the Commission received 47 replies. No complaints were reported; 36 AWDs were reported, with disposition as follows:

Department	Number of AWDs Received	Number granted	Number denied
Public Health	1	1	0
Office of Citizen Complaints	2	0	2
Child Support Services	1	1	0
Planning	5	4	1
Municipal Transportation Agency	1	1	0

Public Utilities Commission	3	3	0
District Attorney's Office	6	5	1
City Attorney's Office	6	6	0
Public Defender's Office	3	3	0
Office of the City Administrator	5	5	0
Port of San Francisco	1	1	0
Planning	1	1	0
Arts Commission	1	1	0

Respectfully submitted,



John St. Croix
Executive Director

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Minutes of the Regular Meeting of
The San Francisco Ethics Commission
August 10, 2009
Room 408, City Hall

(DRAFT)

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I. Call to order and roll call.

Chairperson Studley called the meeting to order at 5:35 p.m.

COMMISSION MEMBERS PRESENT: Jamienne Studley, Chairperson; Susan Harriman, Vice-Chairperson; Eileen Hansen, Commissioner; Charles Ward, Commissioner. Commissioner Emi Gusukuma was excused.

STAFF PRESENT: John St. Croix, Executive Director; Mabel Ng, Deputy Executive Director; Garrett Chatfield, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Andrew Shen, Deputy City Attorney.

OTHERS PRESENT: Harry Baker, Maria Guillen, Richard Knee, Marc Solomon, Anita Mayo, Charlie Marsteller, and other unidentified members of the public.

MATERIALS DISTRIBUTED:

- Memorandum from Executive Director to Ethics Commission re: Proposed amendments to Campaign Finance Reform Ordinance, August 3, 2009
- Legislative Digest, amendments to Campaign Finance Reform Ordinance
- Draft amendments to Campaign Finance Reform Ordinance
- Memorandum from Executive Director to Ethics Commission re: Agenda Item V Transcript of July 13, 2009, Commission Meeting, August 4, 2009
- Memorandum from Executive Director to Ethics Commission re: Contribution Limits, August 3, 2009
- Draft Minutes of the July 13, 2009 Regular Meeting
- Executive Director's Report to the Ethics Commission for the Meeting of August 10, 2009

II. Public comment on matters appearing or not appearing on the agenda that is within the jurisdiction of the Ethics Commission

Harry Baker stated that he attended the meeting to support Oliver Luby, who believes that campaign finance laws should be applied fairly by the Commission.

Maria Guillen stated that she also attended the meeting to support Oliver Luby. She stated the Commission must uphold its own mission statement to promote ethical standards of government officials.

Richard Knee stated that speakers are not required to identify themselves in order to speak. He also attended to support Oliver Luby, who he stated is a dedicated employee of the Commission.

Marc Solomon stated that Ethics Commission staff should pursue the stated mission of the Ethics Commission. He stated that the Commission should adopt standards of professionalism.

IV. Consideration of possible amendments to the \$500 contribution limit under section 1.114(a) of the Campaign and Governmental Conduct Code.

Chairperson Studley stated that this agenda item is for discussion to determine if the limit should be raised and if an interested persons meeting should be held. She stated that this agenda item will be taken out of order.

Executive Director St. Croix stated that staff is required to assess periodically whether the limit should be raised. He stated that other cities have raised the limit to adjust for inflation.

Deputy Executive Director Ng stated that staff originally proposed that periodic adjustments to the limit be made, and that comments regarding raising the limit were made during an interested persons meeting. She stated that the FPPC raises the limit by an automatic formula that adjusts for inflation. She stated that the Commission might also consider raising the limit only for City-wide elections.

Commissioner Hansen stated that the limit should remain at \$500.

Commissioner Harriman stated that the limit should only be raised if the public overwhelmingly expressed the need to raise the limit.

Deputy Executive Director Ng stated that the City Charter allows for cost of living adjustments to the limit.

Commissioner Ward stated that unless the public demands a change in the limit, it should remain at \$500.

Executive Director St. Croix stated that the Commission could send a message out to interested persons to solicit comments regarding adjusting the limit instead of holding an interested persons meeting.

Public Comment.

Marc Solomon stated that the current limit of \$500 does not inhibit the ability for candidates to raise funds. He stated that this topic is unnecessary and that the Commission should leave the limit at \$500.

Anita Mayo stated that the most recent interested persons meeting did not specifically notice raising the contribution limit, and that the intent of the Campaign Finance Reform Ordinance is to spend less time fundraising.

Charlie Marsteller stated that there are legal aspects to raising the limit about which the Commission should consult with the City Attorney.

Chairperson Studley stated that staff will determine if this is something the Commission should pursue further after assessing the public comments regarding contribution limits.

III. Consideration of possible amendments to the Campaign Finance Reform Ordinance (CFRO), San Francisco Campaign and Governmental Conduct Code section 1.100 et seq.

Deputy Executive Director Ng stated that staff met with Supervisor Daly regarding the proposed changes. She stated that Supervisor Daly introduced the amendments to the Board of Supervisors, and changes must be approved by 4/5 of the Ethics Commission and a super majority of the Board of Supervisors. She stated if there are no changes to the amendments by the Commission at this meeting, then the earliest the amendments could be adopted is December 2009. She stated that public financing of candidates will begin February 2010.

Commissioner Harriman stated that most changes appear to be technical, but the definition of "person" is too broad.

Deputy City Attorney Shen stated that the definition is the same as the equivalent state law.

Commissioner Harriman stated that the definition should not include "group of person acting in concert, however organized."

Commissioner Hansen stated that not enough information regarding the policy reasons for the changes have been presented to the Commissioners and would like to hear from the public before acting on the amendments.

Public Comment

Anita Mayo stated that "member communications" as defined in the amendments may be unconstitutional.

Marc Solomon stated that the loan limits should not be raised to \$15,000 as proposed.

Charlie Marsteller questioned if there would be any accompanying regulations to the proposed amendments.

Deputy Executive Director Ng stated that regulations can be considered after the amendments are enacted. She stated that the definition of "member communications" allows for the adjustment of the expenditure ceilings. She stated that there is no obligation to report the communication if there is no associated cost. She stated that "member communications" is used throughout CFRO and that striking that language would constitute a major revision of the ordinance.

Chairperson Studley stated that the Commission should review each change individually:

Section 1.104

Commissioner Hansen stated that the definition of "surplus funds" should not exclude a ballot measure.

Deputy City Attorney Shen stated the change was in response to a situation in which a ballot measure committee could not move money between committees to pay the debt of another.

Commissioner Hansen stated that money should not be moved between committees.

Deputy City Attorney Shen stated that an indebted committee is able to remain formed to raise money to pay its debt.

Public Comment

Charlie Marsteller stated that regulations could be used to clarify the definition.

All Commissioners discussed how to proceed, procedurally, to resolve any issues arising out of the review of the Ordinance at this meeting. Commissioners determined that a review of the changes will aid staff in making further revisions.

Section 1.108

No comments.

Section 1.112

No comments.

Section 1.113

No comments.

Section 1.118

Deputy Executive Ng stated that the reason for this change is to establish that the candidate is responsible for accrued debt.

Commissioner Hansen stated that the language of calculating the time to pay the debt of 180 days after goods are delivered, while removing the language of 180 days after receipt of bill is problematic. She stated there is no way to know when goods are delivered without the submission of a receipt.

Chairperson Studley stated that the obligation to pay starts upon the receipt of the goods which would shorten the timeline for paying bills.

Commissioner Ward stated that if a bill is not paid after a certain period of time, it should be presumed to be a donation.

Section 1.122

Chairperson Studley identified a grammatical error.

Section 1.128

Deputy City Attorney Shen stated that this change was initiated because situations can occur in which a candidate under a voluntary expenditure ceiling can be noted as such in a voter pamphlet, and subsequent to the printing of the voter pamphlet, the voluntary expenditure ceiling can be broken without being reflected in the pamphlet.

Section 1.130

Deputy Executive Director Ng stated that inflation adjustments are calculated using the California Consumer Price index for the Bay area compared to when the law was last changed.

Section 1.134

No comments.

Section 1.135

No comments.

Section 1.140

Deputy Executive Director Ng stated in response to Commissioner Ward, that the proposed loan amount increase is to establish consistency for publicly financed and non-publicly funded candidates.

Commissioner Hansen stated that although she is not in favor of the increase, she does not want to deter persons from seeking public funds.

Chairperson Studley stated that this section prohibits the receipt of public funds if the candidate was found to have willfully violated the California Political Reform Act by a court within the last five years. She stated she wanted to ensure that there is a clear determination of such a finding. Commissioner Hansen stated that this provision should also include findings by the Ethics Commission.

Section 1.144

No omments.

Section 1.48

Executive Director St. Croix said that few if any committees have equipment valued over \$100.00.

Section 1.150

No comments.

Section 1.152

Commissioner Ward stated that the supplemental reporting requirement for the Board of Supervisors currently triggers at \$5000.

Deputy Executive Director Ng stated that the change to \$10,000 will only be applied to mayoral candidates. She stated that the ceiling for mayoral candidates is very high and it would take significant staff resources to review the amount of reports that a \$5000 requirement would generate.

Commissioner Ward stated that the lower amount is better, and that the Commission should wait to see if the volume of reports is difficult to review timely. He stated that the lower amount is more transparent, and that the higher limit allows for a loophole that allows candidates to spend more money before reporting.

Executive Director St. Croix stated that staff will go through a cycle with the lower amount and determine how much of staff resources are used to track reporting.

Section 1.156

No comments.

Section 1.161

No comments.

Section 1.161.5

No comments.

Section 1.168

Executive Director St. Croix stated, in response to Commissioner Hansen, that the change in the statute of limitations change was proposed to ensure that the statute of limitations for violations of all laws within the Commission's jurisdiction is the same.

Deleted Sections

No comments.

Section 1.109

No comments.

Section 1.143

No comments.

Section 1.171

No comments.

Commissioner Hansen stated that section 1.170, the penalties section, should not remove the damages amount.

Deputy City Attorney Shen stated the Charter provides the same language and the provision now just references the Charter. He stated that in effect there is no substantive change.

Motion 09-08-10-1 (Harriman/Ward) Moved, seconded and passed (4-0), that the Commission adopt sections 1.108, 1.112, 1.113, 1.122, 1.128, 1.130, 1.134, 1.135, 1.144, 1.148, 1.150, 1.156, 1.161, 1.161.5, and 1.168, as drafted; delete sections 1.134.5, 1.158, and 1.160; and approve sections 1.109, 1.143, and 1.171 as drafted.

Public Comment

None.

V. Minutes of the Commission's regular meeting of July 13, 2009.

Commissioner Hansen and Chairperson Studley noted several corrections to the minutes.

Motion 09-08-10-2 (Harriman/Hansen) Moved, seconded and passed (4-0), that the Commission adopt the minutes as amended.

VI. Executive Director's Report

Executive Director St. Croix stated that staff was pleased with the budget the Commission received for the current fiscal year. He stated that two staff members have resigned from the Commission. He stated that lobbyists hired to lobby on behalf of the City have not been reporting, and will retroactively file all reports. He stated that there are no enforcement provisions in the Sunshine Ordinance for failing to report, which is where those rules are housed.

Commissioner Hansen stated that the Executive Director's Report should include more information such as: new legislation that is introduced by the Board of Supervisors; who attended interested persons meetings; and press accounts that reference the Commission.

Public Comment

None.

VII. Items for future meetings

Commissioner Hansen stated that she wanted to ensure the Commission continue to have joint meetings with the Sunshine Ordinance Task Force. She also stated that she would like to discuss budgeting for televised meetings. She also stated that she would like to continue discussion of section 1.126 and discuss a press account of how campaign finance laws are being enforced unevenly.

VIII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission

None.

IX. Adjournment

Public Comment

None.

Motion 09-08-10-3 (Harriman/Ward) Moved, seconded and passed (4-0) that the Ethics Commission adjourn.

The meeting was adjourned at 8:08 p.m.

Respectfully submitted,

Garrett Chatfield
Investigator/ Legal Analyst

Ethics Commission



25 Van Ness Ave., Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

**SAN FRANCISCO ETHICS COMMISSION
NOTICE OF REGULAR MEETING
September 14, 2009 5:30 P.M.
and AGENDA**

**Room 408 City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco**

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- I. Call to order and roll call.**
- II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**
- III. Consideration of possible amendments to the Campaign Finance Reform Ordinance (CFRO), San Francisco Campaign and Governmental Conduct Code section 1.100 et seq. At its August 10, 2009 meeting, the Ethics Commission began consideration of and approved several amendments to CFRO that include: eliminating and streamlining reporting requirements, authorizing greater electronic filing, adjusting expenditure limits for inflation, clarifying the permitted uses of campaign funds, limiting which candidates are eligible to accept the voluntary expenditure ceilings, increasing voluntary expenditure ceilings in response to third party spending in support of competing candidates, modifying how public funds are disbursed to candidates, clarifying the requirements for third-party reporting, amending the statute of limitations for administrative actions, and imposing record-retention requirements on local committees. At this meeting, the Commission will continue its consideration of staff proposals that include but are not limited to refining definitions, codifying previous Commission advice that candidate committees are responsible for the payment of accrued expenses, and fine-tuning the eligibility requirements to receive public financing. A staff report, the draft amendments and a legislative digest are available from the Commission office and website. (Discussion and possible action.)**
- IV. Minutes of the Commission's regular meeting of August 10, 2009. (Discussion and possible action.)**
- V. Executive Director's Report. An update of important Ethics Commission staff activities since the previous monthly meeting. (Discussion.)**
- VI. Items for future meetings. Commissioners may propose items for future agendas and the Commission may determine the priority of these items. (Discussion.)**

VII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

VIII. Adjournment.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sf@sf.gov. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

If any materials related to an item on this agenda have been distributed to the Ethics Commission after distribution of the agenda packet, those materials are available for public inspection at the Ethics Commission, 25 Van Ness Avenue, Suite 220, San Francisco, during normal office hours.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing devices.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct, Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102; telephone (415) 252-3100; fax (415) 252-3112 and web site www.sfgov.org/ethics

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ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

NIENNE S. STUDLEY
CHAIRPERSON

SAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: September 9, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

By: Mabel Ng, Deputy Executive Director

Re: Additional proposed changes to CFRO legislation

In reviewing the proposed amendments to the Campaign Finance Reform Ordinance (CFRO), staff has identified two errors related to the disbursement of public funds for mayoral candidates. As you know, based on the Consumer Price Index, the legislation establishes the initial individual expenditure ceiling for candidates for Mayor at \$1,475,000, up from the current \$1,375,000. See San Francisco Campaign and Governmental Conduct Code (C&GC Code) section 1.140(c) on line 18 of page 29. The amount of private funds a candidate must raise and the amount of matching public funds available to the candidate should add up to the initial individual expenditure ceiling of \$1,475,000. However, two figures in the draft legislation are incorrect.

In section 1.144(c), which starts on page 33 of the draft legislation, the figure \$950,000 should be changed to \$900,000 wherever it appears (lines 15 and 22 on page 33, and lines 2, 4, 17, 21 and 22 page 34). In addition, the figure \$500,000 on line 14 of page 34 should be changed to \$450,000. (Pages 33-34 are attached to this memo.)

Once the changes are made, the disbursement amounts would be as shown on the chart on the next page. The figures for the Board of Supervisors public financing program are correct.

Decision Point 8: Shall the Commission approve the changes to section 1.144(c) as discussed in this memo and set forth on amended pages 33-34 of the draft legislation?

Mayoral Program	Current Amounts		Disbursement Formula	Proposed Amounts	
	Private Contributions	Public Grants		Private Contributions	Public Grants
	\$25,000	\$50,000	Initial	\$25,000	\$50,000
	\$100,000	\$400,000	4 to 1 match	\$100,000	\$400,000
	\$400,000	\$400,000	1 to 1 match	\$450,000	\$450,000
Totals	\$525,000	\$850,000		\$575,000	\$900,000
Grand Totals	\$1,375,000			\$1,475,000	

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1 (a) PAYMENT BY CONTROLLER. Upon certifying that a candidate is eligible to
2 receive public financing under this Chapter, the Executive Director shall forward the
3 certification to the Controller, and the Controller shall disburse payments to the candidate from
4 the Election Campaign Fund in accordance with the certification and this Section.

5 (b) TIME OF PAYMENTS. The Controller shall not make any payments under this
6 Chapter to any candidate more than nine ~~(9)~~ months before the date of the election. Payments
7 from the Controller shall be disbursed to eligible candidates within ~~48 hours~~ two business days of
8 the Controller receiving notification from the Ethics Commission regarding the amount of the
9 disbursement, except that within ~~60~~ fifteen calendar days before the election, such payments
10 shall be made within ~~24 hours~~ one business day.

11 (c) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR MAYOR.

12 (1) Until the Per Candidate Available Disbursement Limit has been determined,
13 candidates for Mayor whom ~~on have been certified by~~ the Ethics Commission has certified as eligible
14 to receive public financing for their election campaigns will have access to up to
15 ~~\$250,000.00~~ \$50,000.00 in funds from the Election Campaign Fund on a first come, first
16 served basis according to the formula set forth in Subsection (c)(3) of this Section.

17 (2) Once the Per Candidate Available Disbursement Limit has been determined,
18 candidates for Mayor whom ~~on have been certified by~~ the Ethics Commission has certified as eligible
19 to receive public financing for their election campaigns shall have access to funds from the
20 Election Campaign Fund as follows:

21 (A) If the Executive Director determines that the Per Candidate Available Disbursement
22 Limit is greater than ~~\$250,000.00~~ \$50,000.00, each participating candidate shall have
23 access to the amount of the Per Candidate Disbursement, subject to the limitations set forth
24 under Subsection (c)(3)(D) and (c)(3)(E) of this Section.

1 (B) If the Executive Director determines the Per Candidate Available Disbursement
2 Limit is less than or equal to ~~\$850,000.00~~900,000, participating candidates shall have
3 access to funds from the Election Campaign Fund on a first come, first served basis up to a
4 maximum per candidate of ~~\$850,000.00~~900,000.

5 (3) A candidate for Mayor who is certified as eligible to receive public financing under
6 this Chapter shall receive payments for eligible matching contributions according to the
7 following formula:

8 (A) Upon qualification the candidate shall receive a one-time payment of \$50,000-~~00~~
9 from the Election Campaign Fund.

10 (B) After the initial payment under Subsection (c)(3)(A), for the first \$100,000-~~00~~ in
11 matching contributions raised by the candidate, the candidate shall receive four dollars from
12 the Election Campaign Fund for each dollar raised.

13 (C) After the payments under Subsection (c)(3)(B), for the next
14 ~~\$400,000.00~~500,000~~450,000~~ in matching contributions raised by the candidate, the candidate
15 shall receive one dollar~~s~~ from the Election Campaign Fund for each dollar raised.

16 (D) The maximum amount of public funds a mayoral candidate may receive is
17 ~~\$850,000.00~~900,000, unless the candidate's Individual Expenditure Ceiling is ~~lifted~~
18 adjusted according to the rules set forth under Section ~~1.134.51.143~~. ~~The amount of public funds~~
19 ~~paid under this Section shall not be affected by the lifting of expenditure limits under Section 1.134.~~

20 (E) If the Per Candidate Available Disbursement Limit has been determined to be an
21 amount greater than ~~\$850,000.00~~900,000, a candidate who has already received at
22 least ~~\$850,000.00~~900,000 in disbursements from the City shall continue to be eligible
23 to receive public funds from the City at the rate of one dollar for each dollar of a matching
24 contribution raised up to the Per Candidate Disbursement Limit, provided that no funds shall



ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

ANNETTE S. STUDLEY
CHAIRPERSON

SAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: August 28, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

By: Mabel Ng, Deputy Executive Director

Re: Proposed amendments to Campaign Finance Reform Ordinance

At its last meeting, the Ethics Commission considered and approved several amendments to the Campaign Finance Reform Ordinance (CFRO), Article I of the San Francisco Campaign and Governmental Conduct Code (S.F. C&GCC). Those approved amendments are listed at the end of this memorandum. As noted previously, most of proposed amendments stem from staff's experiences in administering the CFRO and the City's public financing program, particularly in the 2008 election. In general, the proposed changes seek to make it easier for candidates and committees to comply with the law; they also consolidate filing requirements to make it easier for the staff and the public to monitor campaigns and compliance with the law.

Some amendments proposed by staff have not yet been approved by the Commission, however. This memorandum discusses those proposals, which concern sections 1.104 (Definitions), 1.118 (Payment of Accrued Expenses), 1.140 (Eligibility to Receive Public Financing), and 1.152 (Supplemental Reporting in Elections for Board of Supervisors and Mayor).

The Board of Supervisors may amend the CFRO if the amendment furthers the purposes of the CFRO, the Ethics Commission approves the proposed amendment in advance by at least a 4/5 vote of its members, the proposed amendment is available for public review at least 30 days before the Board or any of its committees considers it, and 2/3 of all the members of the Board approves it. S.F. C&GCC § 1.103. As noted during the last meeting, Supervisor Daly introduced the legislation on August 4, 2009; the Rules Committee may consider the legislation in late September. If the Rules Committee and the Board of Supervisors approve the proposed amendments, and the Mayor signs them into law, staff will begin work on updating the Commission's candidate manuals, disclosure forms, and training content to reflect the changes before the next cycle of public financing begins in earnest in February 2010.

Section 1.104. Definitions:

In this section, the original proposals:

- reference the Political Reform Act, California Government Code section 81000 et seq. (PRA) for definitions such as “candidate,” “committee,” “contribution,” “controlled committee,” “general purpose committee,” and “independent expenditure”;
- add new definitions such as “candidate committee” to distinguish between an individual candidate and that individual’s campaign committee; add “Code” to mean the S.F. C&GCC; “member communication,” “withdrawal” or “withdraw;”
- move certain definitions such as “itemized disclosure statement,” “mass mailing,” “unexpended public funds” from other sections of the CFRO into this definitions section;
- amend the definition of “surplus funds” to exclude its application to funds remaining in the campaign account of a committee primarily formed to support or oppose a ballot measure; and
- make other clarifying changes to definitions, including “matching contribution,” “measure” and “qualifying contribution.”

At the August 10, 2009 meeting, the Commissioners expressed concern with the proposed changes to the definitions of “person” and “surplus funds.”

Under current section 1.104(m) of the CFRO, “person means “any individual, partnership, corporation, association, firm, committee, club or other organization or group of persons, however organized.”

Under the PRA, “person” means “an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.” See CA Gov’t Code § 82047.

Staff’s proposed amendments define “person” as “any individual, partnership, corporation, association, firm, proprietorship, joint venture, syndicate, business trust, company, limited liability company, committee, club or other organization or group of persons acting in concert, however organized.”

At the August 10, 2009 meeting, Commissioner Harriman suggested inserting a period after “organization” and deleting the remaining clause in the proposed definition. She was concerned that the phrase “or group of persons acting in concert, however organized” might be too vague and broad and might unwittingly capture social, neighbor or familial behavior that should not be subject to regulation.

The Fair Political Practices Commission’s interpretation of the PRA’s definition of “person” provides helpful guidance. In 10 FPPC Ops. 10, 1987 FPPC Ops. Lexis 1, July 28, 1987, the FPPC wrote,

if two individuals, acting independently, each make a \$50 contribution to the same candidate, the contributions are not required to be itemized on campaign statements. In contrast, if two individuals, acting in concert, each make a \$50 contribution to the same candidate, the contributions are considered to be from “one person” (i.e., from one

source) and must be itemized. Whether two or more persons are acting in concert when making political contributions depends on the particular facts of the situation. For example, if the contributions are made by several persons but from one source of funds, the persons are considered to be acting in concert. (Citations omitted.)

Thus, when neighbors gather together and decide to make contributions to support one candidate, whether such neighbors are acting in concert will depend on the particular facts of the situation. Staff's draft definition of "person," which includes the term "acting in concert" tracks the PRA's definition and is narrower than the current CFRO definition.

With respect to Commissioner Harriman's suggestion to delete "or group of persons however organized," staff believes that such a deletion might remove from regulation new types of entities that currently are not captured in the definition of "person." While the term "organization" may capture such entities, staff is also concerned that the CFRO's definitions conform as much as possible to the definitions in the PRA, which will make compliance easier and enforcement more consistent.

If 4/5 of the Commission does not approve the proposed amendments, the current definition would remain in place.

Decision Point 1: Shall the Commission approve the proposed amendments to the definition of "person" as set forth on page 7, lines 8-11?

With respect to the term "surplus funds," subsection (y) on page 8, line 21-page 9, line 3, at the August 10 meeting, the Commissioners supported retaining the phrase "and funds remaining in the campaign account of a committee primarily formed to support or oppose a measure at the end of the post-election reporting period following the election at which the measure appeared on the ballot." Staff withdraws its earlier recommendation to delete this phrase. Because the current definition of "surplus funds" will remain unchanged, there is no need for the Commission to take a separate vote on section 1.104(y).

The following questions relate to the approval of all the proposed changes to definitions in section 1.104.

Decision Point 2: If the answer to Decision Point 1 is yes, shall the Commission approve the proposed amendments to section 1.104 as set forth on page 4, line 4 – page 10, line 4?

Decision Point 3: If the answer to Decision Point 1 is no, shall the Commission approve the proposed amendments to section 1.104 except for "person," as set forth on page 4, line 4 – page 10, line 4?

Section 1.118. Payment of Accrued Expenses

In this section, the proposals:

- codify the March 23, 2009 Ethics Commission Pearce Advice Letter by clarifying that candidate committees, rather than individual candidates, are responsible for the payment of accrued expenses. Individual candidates still may be liable for their controlled committees' violations of CFRO.

At the August 10, 2009 meeting, the Commissioners discussed whether to support the proposed deletion of the strike-through words "~~in full no later than 180 calendar days after receipt of a bill or invoice and in no event~~" that appear on page 18, lines 7-8. Staff had proposed these deletions because current law sets two possible deadlines for payment of accrued debts: one based on the time that a committee receives a bill or invoice from a vendor, and one based on the date when the vendor's goods were delivered or services were rendered. The latter is an absolute deadline within which a candidate committee must pay accrued expenses. However, because staff has not experienced any problems administering the current law and has not received any objections from the regulated community, and in light of the Commission's concerns, staff withdraws the recommendation.

Decision Point 4: Shall the Commission approve the proposed amendments to section 1.118(a) as set forth on page 18, lines 6-19?

Section 1.140. Eligibility to Receive Public Financing

In this section, the proposals:

- increase the amount that a publicly-financed candidate may loan or donate to his or her committee from \$5,000 to \$15,000;
- require a candidate to have paid any fines imposed for any violation of the S.F. C&GCC, which would, for example, include fines for violations of the conflict of interest or lobbyist laws;
- require a candidate to have filed any forms required by the S.F. C&GCC;
- require that the candidate has not willfully violated the S.F. C&GCC within the last five years;
- increase the individual expenditure ceiling (IEC) of a publicly financed candidate for the Board of Supervisors from \$140,000 to \$143,000 to reflect inflation; and
- increase the IEC of a publicly financed candidate for Mayor from \$1,375,000 to \$1,475,000 to reflect inflation.

Under proposed section 1.140(a)(5), to be eligible for public funds, a candidate must have no finding by a court within the prior five years that the candidate knowingly, willfully, or intentionally violated any section of the C&GCC or the campaign finance provisions of the Political Reform Act. *See* draft amendments at page 28, lines 13-18. At the August 10, 2009 meeting, some Commissioners also stated that a candidate similarly should not be eligible for public financing if the Ethics Commission has found the candidate to have committed a knowing, willful or intentional violation of the C&GCC. Staff has added language to that effect. Under the new proposal, a candidate would not be eligible for public financing if, within the previous five years, a court or the Ethics Commission after a hearing on the merits has found the candidate committed a knowing, willful or intentional violation of the C&GCC.

Decision Point 5: Shall the Commission approve section 1.140 as set forth on page 27, line 6 – page 30, line 12?

Section 1.152. Supplemental Reporting in Elections for Board of Supervisors and Mayor

The proposals clarify that third parties must file supplemental reports, along with a copy or electronic recording of any communication paid for by the third party, when their expenditures reach or exceed certain levels in elections related to the Board of Supervisors and the Mayor. Under staff's earlier recommendation, the threshold for filing such reports would have changed from \$5,000 to \$10,000 per candidate for Mayor. However, at its August meeting, the Commission expressed support for retention of the \$5,000 threshold at least until one cycle of public financing for Mayoral candidates has occurred. The current draft reflects the \$5,000 threshold, as shown on page 44, line 2.

Decision Point 6: Shall the Commission approve section 1.152 as set forth on page 41, line 5 – page 45, line 14?

Overall Passage of Proposed Amendments

Staff recommends that after the Commission considers and votes on these proposals, it also should consider voting on the package as a whole to address the grammatical and minor technical changes not highlighted in the earlier staff memo.

Decision Point 7: Except as decided otherwise, shall the Commission approve the amendments as set forth in the draft proposals?

* * * * *

Proposed Amendments Approved by the Ethics Commission at its August 10, 2009 Meeting

Section 1.108. Candidate Committee Campaign Trust Accounts and Campaign Contingency Accounts:

In this section, the proposals:

- delete the requirement that a committee file its bank account and branch identification number with Ethics Commission, as state law already requires committees to provide this information when they are first established; and
- clarify how publicly financed candidates may use their contingency accounts.

1.112. Electronic Campaign Disclosure

- The proposals clarify that certain committees required to file disclosure reports under the *state law* must file electronically with the Ethics Commission if they meet specific thresholds (e.g., committees that meet the \$5,000 contribution or expenditure threshold). The proposals also authorize the Commission to require the electronic filings of reports required by *local law*, without any monetary threshold.

1.113. Disclosure Requirements During Signature Gathering Periods for Initiatives, Referenda and Recalls

- The proposals create a uniform schedule governing when committees raising or spending funds to support or oppose a measure during the signature-gathering period for initiative, referendum, or recall petitions must file disclosure reports with the Ethics Commission.

1.122. Solicitation or Acceptance of Campaign Contributions – Limitation

- The proposals clarify that a withdrawn, defeated or departed candidate may use campaign funds to pay outstanding campaign debts and expenses associated with terminating the committee. The proposals also authorize Commission to identify by regulation other permissible uses of such funds.

1.128. Acceptance or Rejection of Voluntary Expenditure Ceilings

In this section, these proposals:

- change the law so that candidates for the Board of Supervisors or Mayor may no longer accept a voluntary expenditure ceiling (VEC). Those candidates would instead be subject to an individual expenditure ceiling (IEC), if they accept public financing. Candidates for all other local offices still could accept a VEC. Allowing supervisorial and mayoral candidates to accept VECs and IECs often confuses candidates and prospective voters;
- allow other candidates to accept the VEC any time – instead of no earlier than June 1 of the year in which they are seeking election – up to the deadline for filing nomination papers;
- delete the requirement that the Director of Elections publish notices in the Voter Information Pamphlet indicating which candidates have accepted the VEC; and
- require the Ethics Commission to maintain on its website a list of candidates who have accepted the VEC. These last two steps provide the public with most accurate and current information regarding candidate spending limits.

1.130. Amount of Voluntary Expenditure Ceilings

The proposals adjust the voluntary expenditure ceilings as follows to reflect inflation:

- the VEC for the offices of Assessor, Public Defender, City Attorney, District Attorney, Treasurer or Sheriff would increase from \$229,000 to \$243,000; and
- the VEC for the offices of Board of Education or Community College District would increase from \$98,000 to \$104,000.

1.134. Lifting of Voluntary Expenditure Ceilings; Supplemental Reporting etc.

In this section, the proposals:

- require all candidates in races other than for the Board of Supervisors or Mayor to report, within 24 hours, when they receive contributions or make expenditures that total more than 100 percent of the applicable VEC; and
- clarify that third parties must file supplemental reports, along with a legible copy or electronic recording of the communication, when their expenditures regarding those races reach or exceed \$5,000 per candidate.

1.135. Supplemental Pre-Election Statements

In this section, the proposals:

- clarify that a committee must file pre-election statements if it makes contributions or *independent* expenditures of \$500 or more during the pre-election period; and

- clarify that in even-numbered years, committees must file supplemental pre-election statements in accordance with the schedule established by the Fair Political Practices Commission. (The Commission approved the substance of these amendments in May 2008, but the Board of Supervisors did not take up the legislation.)

Section 1.144. Disbursement of Public Funds

In this section, the proposals:

- change the time that public funds must be disbursed to candidates by the Controller from 48 hours to two business days, except that in last 15 days (instead of 60 days) before the election, such payments must be made within one business day rather than 24 hours;
- increase the maximum amount of public funds available to publicly-financed mayoral candidates from \$850,000 to \$950,000, unless the per candidate available disbursement limit is greater than \$950,000 and the Executive Director has raised a candidate's IEC;
- increase the maximum amount of public funds available to publicly-financed supervisory candidates from \$87,500 to \$89,000, unless the per candidate available disbursement limit is greater than \$89,000 and the Executive Director has raised a candidate's IEC; and
- provide that no candidate may submit a claim for public funds if the candidate has any claims pending with the Ethics Commission.

Section 1.148. Restrictions on Use of Public Funds; Unexpended Public Funds

- The proposals eliminate the requirement that a publicly financed candidate turn over to the City any equipment that has a fair market value greater than \$100.

Section 1.150. Audit; Repayment

- The proposals codify the Commission's practice of initiating random and targeted audits.

1.156. Report to the Mayor and Board of Supervisors

- The proposals delete the requirement that the Ethics Commission study and prepare reports on the public financing after the 2007 and 2008 elections. The Ethics Commission has completed these reports.

Section 1.161. Disclosure and Filing Requirements for Mass Mailings

Currently, parties sending mass mailings may, depending on the circumstances, file multiple reports disclosing the same information to the Ethics Commission. In this section, the proposals:

- provide that a person required to disclose expenditures for a mass mailing under section 1.134, 1.152 or 1.161.5 need not file an additional itemized disclosure under section 1.161; and
- authorize the Commission to permit the facsimile filing of itemized disclosure statements and mass mailings.

1.161.5. Disclosure and Filing for Electioneering Communications

Currently, parties sending mass mailings may, depending on the circumstances, file multiple reports disclosing the same information to the Ethics Commission. In this section, the proposals:

- provide that a person required to disclose expenditures for an electioneering communication under section 1.134, 1.152 or 1.161 need not file an additional itemized disclosure under section 1.161.5;
- delete language regarding late filing fees because section 1.170(d) separately addresses late filing fees; and
- eliminate “expenditures” as an exception to the definition of “electioneering communication.” In the November 2008 election cycle, the exclusion of “expenditures” limited the Ethics Commission’s ability to track all third-party spending, such as third-party spending relating to ballot measures when such spending included communications that identified a candidate for City elective office.

1.168. Enforcement; Advice

- The proposals shorten the statute of limitations for administrative action from five to four years after the date on which the violation occurred.

Deleted Sections

- 1.134.5 (Lifting of Individual Expenditure Ceilings) has been renumbered and replaced by new section 1.143.
- 1.158 (Implementing Regulations; Forms) has been renumbered as new section 1.175.
- 1.160 (No Limitation of Candidate Liability) has been renumbered as new subsection 1.170(g).

New section 1.109. Retention of Records

- This new section requires all candidates and committees to maintain their records for four years. It also requires committees to submit to the Ethics Commission documents upon ten days’ notice if the Commission articulates a reason for its request in writing.

New section 1.143. Adjusting Individual Expenditure Ceilings

This new section:

- generally restates current section 1.134.5, except that it incorporates higher IECs for candidates for Mayor (\$1,475,000) and the Board of Supervisors (\$143,000); and
- shortens the time period in which the Executive Director must determine whether a communication filed under section 1.152 supports or opposes one or more candidates from four business days to two business days.

New section 1.171. Issuance of Subpoenas

- This new section provides that the Ethics Commission, including the Executive Director, may issue subpoenas in furtherance of its duties under the Charter.

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[Campaign Finance Reform Ordinance amendments.]

Ordinance amending Article I, Chapter I of the Campaign & Governmental Conduct Code by amending sections 1.100, 1.104, 1.107, 1.108, 1.112, 1.113, 1.114, 1.118, 1.122, 1.128, 1.130, 1.134, 1.135, 1.136, 1.140, 1.142, 1.144, 1.146, 1.148, 1.150, 1.152, 1.156, 1.161, 1.161.5, 1.168, 1.170, deleting sections 1.134.5, 1.158, and 1.160, and adding sections 1.109, 1.143, 1.171, and 1.175 to refine and conform definitions; to eliminate and streamline reporting requirements; to authorize greater electronic filing; to adjust expenditure ceilings for inflation; to clarify the permissible uses of campaign funds; to provide that certain candidates are eligible to accept Voluntary Expenditure Ceilings; to set forth the instances in which the Ethics Commission will lift Voluntary Expenditure Ceilings; to modify how public funds are disbursed to eligible candidates; to clarify the requirements for third-party reporting; to amend the statute of limitations for administrative actions; and to impose record retention requirements on local committees.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Campaign & Governmental Conduct Code is hereby amended by amending Sections 1.100, 1.104, 1.107, 1.108, 1.112, 1.113, 1.114, 1.118, 1.122, 1.128, 1.130, 1.134, 1.135, 1.136, 1.140, 1.142, 1.144, 1.146, 1.148, 1.150, 1.152, 1.156, 1.161, 1.161.5, 1.168, 1.170, to read as follows:

SEC. 1.100. PURPOSE AND INTENT.

1 (a) Huge sums of money, often are necessary to finance American election campaigns.
2 Inherent to the high cost of election campaigning is the problem of improper influence, real or
3 potential, exercised by campaign contributors over elected officials. In addition, this
4 fundraising distracts public officials seeking reelection from focusing upon important public
5 matters, encourages contributions which may have a corrupting influence, ~~and~~ gives
6 incumbents an unfair fundraising advantage over potential challengers, and provides
7 contributors with greater access to public officials than other members of the public. These
8 developments undermine the integrity of the governmental process, and the competitiveness
9 of campaigns. The amount of money raised by many candidates and committees supporting or
10 opposing candidates also erodes ~~and~~ public confidence in local officials by creating the appearance
11 that elected officials may be unduly influenced by contributors who support their campaigns or oppose
12 their opponents' campaigns.

13 (b) It is the purpose and intent of the People of the City and County of San Francisco in
14 enacting this Chapter to:

15 (1) Place realistic and enforceable limits on the amount individuals may contribute to
16 political campaigns in municipal elections and to provide full and fair enforcement of all the
17 provisions in this Chapter;

18 (2) Ensure that all individuals and interest groups in our city have a fair opportunity to
19 participate in elective and governmental processes;

20 (3) Create an incentive to limit overall expenditures in campaigns, thereby reducing the
21 pressure on candidates to raise large campaign war chests for defensive purposes beyond
22 the amount necessary to communicate reasonably with voters;

23 (4) Reduce the advantage of incumbents and thus encourage competition for elective
24 office;

1 (5) Allow candidates and officeholders to spend a smaller proportion of their time on
2 fundraising and a greater proportion of their time dealing with issues of importance to their
3 constituents' community;

4 (6) Ensure that serious candidates are able to raise enough money to communicate
5 their views and positions adequately to the public, thereby promoting public discussion of the
6 important issues involved in political campaigns;

7 (7) Limit contributions to candidates and committees, including committees that make
8 independent expenditures, to eliminate or reduce the appearance or reality that large
9 contributors may exert undue influence over elected officials;

10 (8) Assist voters in making informed electoral decisions and ensure compliance with
11 campaign contribution limits through the required filing of campaign statements detailing the
12 sources of campaign contributions and how those contributions have been expended;

13 (9) Make it easier for the public, the media and election officials to efficiently review and
14 compare campaign statements by requiring committees that meet certain financial thresholds
15 to file copies of their campaign statements on ~~computer diskettes or other~~ designated electronic
16 media;

17 (10) Help restore public trust in governmental and electoral institutions; and

18 (11) Help ensure the integrity of the election process by prohibiting campaign
19 advertisements that contain ~~knowing~~ false endorsements of current and former public officials,
20 candidates, political clubs, and organizations. Such false endorsements undermine the
21 integrity of the electoral process by misleading and confusing voters about the actual support
22 for or opposition to candidates or ballot measures and it is too burdensome for individual
23 voters, inundated with campaign messages, to verify the accuracy of such claims and for
24 persons whose positions are misrepresented to correct the misrepresentations close in time to
25 the election.

(c) This Chapter is enacted in accordance with the terms of Sections 5 and 7 of Article XI of the Constitution of the State of California and Section 1.101 of the Charter of the City and County of San Francisco.

SEC. 1.104. DEFINITIONS.

Whenever in this Chapter the following words or phrases are used, they shall mean:

(a) "Candidate" shall ~~mean any individual listed on the ballot for election to any City elective office or who otherwise has taken affirmative action to seek nomination or election to such office. The term "candidate" shall also mean the candidate's campaign committee~~ be defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq., but shall include only candidates for City elective office.

(b) "Candidate committee" shall mean a committee controlled by a candidate, and primarily formed to support that candidate's election for City elective office.

(c) "Charitable organization" shall mean an entity exempt from taxation pursuant to Title 26, Section 501 of the United State Code.

(d) "City elective office" shall mean the offices of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, Member of the Board of Education of the San Francisco Unified School District and Member of the Governing Board of the San Francisco Community College District. The Board of Supervisors ~~shall be deemed to consist of~~ eleven separate City elective offices, the San Francisco Community College District ~~shall be deemed to consist of~~ seven separate City elective offices, and the Board of Education of the San Francisco Unified School District ~~shall be deemed to consist of~~ seven separate City elective offices.

(e) "Code" shall mean the San Francisco Campaign and Governmental Conduct Code.

1 (d~~f~~) "Committee" shall be defined as set forth in the California Political Reform Act,
2 California Government Code section 81000, et seq. of the State of California (commencing at Section
3 81000).

4 (e~~g~~) "Contribution" shall be defined as set forth in the California Political Reform Act,
5 California Government Code section 81000, et seq. of the State of California (commencing at Section
6 81000); provided, however, that "contribution" shall include loans of any kind or nature.

7 (h) "Controlled committee" shall be defined as set forth in the California Political Reform Act,
8 California Government Code section 81000, et seq.

9 (f~~i~~) "Election" shall mean any ~~primary~~-general, or special municipal election held in the
10 City and County of San Francisco for City elective office or for a local measure, regardless of
11 whether the election is conducted by district or Citywide.

12 (g~~i~~) "Enforcement authority" shall mean the District Attorney ~~of the City and County of San~~
13 ~~Francisco~~ for criminal enforcement, the City Attorney for civil enforcement, and the Ethics
14 Commission for administrative enforcement. Nothing in this Chapter shall be construed as
15 limiting the authority of any law enforcement agency or prosecuting attorney to enforce the
16 provisions of this Chapter under any circumstances where such law enforcement agency or
17 prosecuting attorney otherwise has lawful authority to do so.

18 (h~~k~~) "Ethics Commission" shall mean the San Francisco Ethics Commission.

19 (i~~l~~) "Executive Director" shall mean the Executive Director of the Ethics Commission, or
20 the Executive Director's designee.

21 (m) "General purpose committee" shall be defined as set forth in the California Political
22 Reform Act, California Government Code section 81000 et seq.

23 (n) "Independent expenditure" shall be defined as set forth in the California Political Reform
24 Act, California Government Code section 81000 et seq. An expenditure is not considered independent
25 and shall be treated as a contribution from the person making the expenditure to the candidate on

1 whose behalf or for whose benefit the expenditure is made, if the expenditure is made at the request,
2 suggestion, or direction of, or in cooperation, consultation, concert or coordination with, the candidate
3 on whose behalf, or for whose benefit, the expenditure is made.

4 (j) "Individual Expenditure Ceiling" shall mean the expenditure ceiling established for
5 each individual candidate for Mayor or the Board of Supervisors whom ~~has been certified by the~~
6 Ethics Commission has certified as eligible to receive public funds under this Chapter.

7 (p) "Itemized disclosure statement" shall mean a form promulgated by the Ethics Commission
8 that provides a detailed description of the separate costs associated with a communication, including
9 but not limited to photography, design, production, printing, distribution, and postage.

10 (q) "Mass mailing" shall be defined as set forth in the California Political Reform Act,
11 California Government Code section 81000 et seq., provided that the mass mailing advocates for or
12 against one or more candidates for City elective office.

13 (kr) "Matching contribution" shall mean a contribution up to \$500.00, ~~that is~~ made by an
14 individual, other than the candidate, who is a resident of San Francisco. Matching
15 contributions shall not include loans, contributions ~~that are~~ received more than 18 months
16 before the date of the election, qualifying contributions or contributions made by the candidate's
17 spouse, registered domestic partner or dependent child, immediate family or qualifying contributions,
18 ~~and~~ Matching contributions must also comply with all requirements of this Chapter. Matching
19 contributions under \$100.00 that are not made by written instrument must be accompanied by
20 written documentation ~~of sufficient to establish~~ the contributor's name and address. The Ethics
21 Commission shall set forth, by regulation, the types of documents sufficient to establish a contributor's
22 name and address for the purpose of this subsection.

23 (ls) "Measure" shall mean any City, San Francisco Unified School District or San
24 Francisco Community College District referendum, initiative or recall or ballot proposition,
25 ~~whether or not it qualifies for the ballot~~ that either has been placed on the ballot under the procedures

1 set forth in the Municipal Elections Code or the Charter or has been circulated for signatures in the
2 City and County.

3 (t) "Member communication" shall mean a communication made by an organization or its
4 committee for the publication, dissemination or communication to the organization's members,
5 employees or shareholders, or to the families of the organization's members, employees or
6 shareholders by newsletter, letter, flyer, e-mail or similar written or spoken material, that supports or
7 opposes a candidate or measure.

8 (m) "Person" shall mean any individual, partnership, corporation, association, firm,
9 proprietorship, joint venture, syndicate, business trust, company, limited liability company,
10 committee, club or other organization or group of persons acting in concert, however
11 organized.

12 (n) "Qualified campaign expenditure" for candidates ~~includes~~ shall mean all of the
13 following:

14 (1) Any expenditure made by a candidate, or by a committee controlled by the
15 candidate, for the purpose of influencing or attempting to influence the actions of the voters for
16 the election of the candidate to City elective office.

17 (2) A nonmonetary contribution provided to the candidate, officeholder or committee
18 controlled by the candidate.

19 (3) The total cost actually paid or incurred by the candidate or controlled committee of
20 the candidate for a slate mailing or other campaign literature produced or authorized by more
21 than one candidate.

22 (4) Expenses incurred, but for which payment has not yet been made.

23 (5) Expenses associated with complying with applicable laws, including but not limited
24 to the California Political Reform Act, California Government Code Section 81000, et seq., and
25 the provisions of this Chapter.

1 (6) "Qualified campaign expenditure" shall not include filing fees, expenses incurred in
2 connection with an administrative or judicial proceeding, payments for administrative, civil or
3 criminal fines, including late filing fees ~~fees~~, costs incurred after the election that do not directly
4 affect the outcome of the election, including but not limited to utility bills, expenses associated
5 with an audit, and expenses related to preparing post-election campaign finance disclosure
6 reports as required by the California Political Reform Act, California Government Code
7 Section 81000, et seq., and the provisions of this Chapter, or for inaugural activities or
8 officeholder expenses.

9 (e) "Qualifying contribution" shall mean a contribution of not less than \$10-~~00~~ and not
10 more than \$100-~~00~~ that is made by an individual who is a resident of San Francisco and that
11 complies with all requirements of this Chapter. Qualifying contributions shall not include loans,
12 contributions ~~that are~~ received more than 18 months before the date of the election or
13 contributions made by the candidate or the candidate's immediate family spouse, registered
14 domestic partner or dependent child. Qualifying contributions under \$100-~~00~~ that are not made by
15 written instrument must be accompanied by written documentation ~~of sufficient to establish the~~
16 contributor's name and address. The Ethics Commission shall set forth, by regulation, the types of
17 documents sufficient to establish a contributor's name and address for the purpose of this subsection.

18 (f) "Recorded telephone message" shall mean a recorded audio message that
19 expressly supports or opposes a candidate for City elective office that is distributed by
20 telephone.

21 (g) "Surplus funds" shall mean funds remaining in a candidate's campaign account at
22 the time the candidate leaves City elective office, or at the end of the post-election reporting
23 period following the defeat of the candidate for City elective office, whichever occurs last, ~~and~~
24 ~~funds remaining in the campaign account of a committee primarily formed to support or oppose a~~
25 ~~measure at the end of the post election reporting period following the election at which the measure~~

1 appeared on the ballot, and funds remaining in the campaign account of a committee primarily
2 formed to support or oppose a measure at the end of the post-election reporting period
3 following the election at which the measure appeared on the ballot.

4 (¶z) "Total Opposition Spending" shall mean the sum of any expenditures made or
5 expenses incurred by any person or persons for the purpose of making independent
6 expenditures, electioneering communications or member communications in opposition to a
7 specific candidate for Mayor or the Board of Supervisors.

8 (saa) "Total Supportive Funds" shall mean the sum of all contributions received by a
9 candidate committee supporting a candidate for Mayor or the Board of Supervisors, other than
10 any funds in the candidate's Campaign Contingency Account exceeding the candidate
11 committee's Trust Account Limit, plus the expenditures made or expenses incurred by any
12 person or persons for the purpose of making independent expenditures, electioneering
13 communications or member communications in support of that same candidate.

14 (tbb) "Trust Account Limit," shall mean the amount of funds in the Campaign
15 Contribution Trust Account of a candidate committee supporting a candidate for Mayor or the
16 Board of Supervisors whom ~~has been certified by~~ the Ethics Commission has certified as eligible
17 to receive public funds under this Chapter such that the expenditure of this amount would
18 cause the candidate to reach, but not exceed, the candidate's Individual Expenditure Ceiling.
19 The Trust Account Limit shall be reduced as the candidate spends money and shall be
20 increased when his or her Individual Expenditure Ceiling increases.

21 (cc) "Unexpended public funds" shall mean all funds remaining in the candidate committee's
22 account on the 30th day after the candidate controlling the committee is either elected or not elected to
23 office, regardless of the source of the funds, but shall not exceed the amount of public funds provided to
24 the candidate. Funds raised after this date are not unexpended funds.

25 (uud) "Voter" shall means an individual registered to vote in San Francisco.

1 (cc) "Withdrawal" or "withdraw" shall mean, prior to an election, ending one's candidacy or
2 failing to qualify for an office for which a candidate has solicited or accepted contributions.

3 (vii) "Written instrument" shall mean a check, credit card receipt, or record of electronic
4 transfer of funds.

5 SEC. 1.107. TRAINING FOR CANDIDATES AND TREASURERS.

6 (a) Training Requirements.

7 (1) Candidates. Every candidate for City elective office and ~~their~~his or her treasurer~~s~~
8 shall attend a training program conducted or sponsored by the Ethics Commission within one
9 year prior to ~~each~~any election at which the candidate's name will appear on the ballot.

10 (2) Treasurers. Every committee treasurer shall attend the next training program
11 conducted or sponsored by the Ethics Commission after the date the committee files either its
12 original statement of organization or an amendment to a statement of organization
13 designating a new treasurer.

14 (b) Exception. An individual who serves as the treasurer for more than one committee
15 is not required to attend a training required by Subsection (a) if that individual has attended
16 such a training within the previous 12 months.

17 (c) Definition. For the purposes of this section, "committee" shall mean any committee
18 that: (1) qualifies as committee pursuant to subdivision (a) of Section 82013 of the California
19 Government Code ~~as incorporated into this Chapter by Section 1.104;~~ and (2) is required to file its
20 semi-annual campaign statements with the Ethics Commission.

21 SEC. 1.108. CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST
22 ACCOUNTS AND CAMPAIGN CONTINGENCY ACCOUNTS.

23 (a) CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS.

24 (1) Establishment of Account. Each treasurer for a candidate committee shall establish a
25 Campaign Contribution Trust Account for the candidate committee at an office of a bank

located in the City and County of San Francisco, ~~the account number and branch identification of which shall be filed with the Ethics Commission within ten days of the establishment of the account.~~ All ~~of the~~ expenditures by the candidate committee for the City elective office sought shall be made from that account.

(2) Prohibition on Multiple Officeholder Accounts. All funds, services or in-kind contributions received by a candidate committee ~~City elective officer, or by any person or committee on behalf of a City elective officer,~~ for expenses incurred directly in connection with carrying out the candidate's usual and necessary duties of holding office shall be deposited, credited or otherwise reported to the ~~officer-candidate committee's~~ eCampaign eContribution ~~Trust~~ ~~a~~ ~~Account, and~~ Such contributions shall be subject to the contribution limits in Section 1.114 of this Chapter. An elected officeholder may not establish or control any other committees or accounts for the purpose of making officeholder expenses. Nothing in this Section shall prohibit an officer from spending personal funds on official ~~or related business~~ activities.

(3) Account Limits. A candidate committee controlled by a candidate for Mayor or the Board of Supervisors ~~whom has been certified by the Ethics Commission~~ has certified as eligible to receive public funds under this Chapter shall not, at any time before the date of the election for which the candidate has been certified, have an amount of funds greater than the candidate committee's Trust Account Limit in its ~~his or her~~ Campaign Contribution Trust Account, unless those contributions are immediately transferred into the candidate committee's Campaign Contingency Account.

(b) CAMPAIGN CONTINGENCY ACCOUNTS FOR CANDIDATE COMMITTEES FOR MAYOR AND THE BOARD OF SUPERVISORS.

(1) Notwithstanding any other section of this Code, including Subsection (a)(2), a candidate committee controlled by a candidate for Mayor or the Board of Supervisors ~~whom~~ has been certified by the Ethics Commission has certified as eligible to receive public funds under

1 this Chapter may maintain a Campaign Contingency Account separate from ~~his or her~~ its
2 Campaign Contribution Trust Account into which ~~he or she~~ it may deposit money contributions
3 in anticipation ~~that the Ethics Commission will raise~~ of the candidate's Individual Expenditure
4 Ceiling ~~being raised~~. All money contributions deposited into this account shall be reported as if
5 it were deposited into the candidate's committee's Campaign Contribution Trust Account.

6 (2) No candidate committee may deposit any funds into its Campaign Contingency Account if
7 the amount of funds in the candidate committee's Campaign Contribution Trust Account is less than the
8 candidate committee's Trust Account Limit.

9 (23) No expenditures shall be made from a Campaign Contingency Account
10 established pursuant to this section. Funds may be transferred ~~between a~~ from the candidate
11 committee's Campaign Contingency Account ~~and to~~ the candidate committee's Campaign
12 Contribution Trust Account, provided that the amount of funds in the ~~candidate's~~ Campaign
13 Contribution Trust Account does not exceed the candidate committee's Trust Account Limit. All
14 funds that qualify as matching contributions and are transferred from the Campaign
15 Contingency Account to the Campaign Contribution Trust Account shall be eligible to be
16 matched with public funds in accordance with the procedures set forth in this Chapter. Within
17 ten days after the date of the election, the candidate committee shall turn over all funds in the
18 Campaign Contingency Account to the Election Campaign Fund.

19 SEC. 1.112. ELECTRONIC CAMPAIGN DISCLOSURE.

20 (a) FILING ELECTRONIC CAMPAIGN STATEMENTS.

21 (1) Filing Electronic Copies of Campaign Statements Required by State Law. Whenever
22 any committee that meets the requirements of Subsection (b) of this Section is required by ~~this~~
23 ~~Chapter or~~ the California Political Reform Act, ~~California~~ Government Code Section 81000 et
24 seq., to file a campaign disclosure statement or report with the Ethics Commission, the
25 committee shall file at the same time a copy of the statement or report in an electronic format

with the Ethics Commission, provided the Ethics Commission has prescribed the format at least 60 days before the statement or report is due to be filed.

(2) Filing Electronic Copies of Campaign Statements Required by Local Law. Whenever any committee is required to file a campaign disclosure statement or report with the Ethics Commission under this Chapter, the committee shall file the statement or report in an electronic format, provided the Ethics Commission has prescribed the format at least 60 days before the statement or report is due to be filed.

(23) Continuous Filing of Electronic Statements. Once a committee is subject to the electronic filing requirements imposed by this Section, the committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the committee ~~files a termination statement terminates~~ pursuant to this Chapter and the California Political Reform Act, ~~(California~~ Government Code Section 81000 et seq.).

(34) Disclosure of Expenditure Dates. All electronic statements filed under this Section shall include the date any expenditure required to be reported on the statement was incurred, provided that the Ethics Commission's forms accommodate the reporting of such dates.

(b) COMMITTEES SUBJECT TO ELECTRONIC FILING REQUIREMENTS.

(1) A committee is subject to this Section if the committee must file electronic copies of statements and reports if it receives contributions or makes expenditures that total \$5,000 or more in a calendar year and is: (1) required to file a statement of organization under this Chapter and the California Political Reform Act (Government Code Sections 81000 et seq.); and (2) is controlled by a candidate, or is formed or exists primarily to support or oppose a candidate, or is formed or exists primarily to support or oppose a ballot measure which is being voted on only in the City and County, or is a general purpose Committee active only in the City and County; and (3) receives contributions, or makes independent expenditures, totaling \$5,000.00 or more in a calendar year.

1 (A) a committee controlled by a candidate for City elective office;

2 (B) a committee primarily formed to support or oppose a local measure or a candidate for City
3 elective office; or

4 (C) a general purpose recipient, independent expenditure or major donor committee that
5 qualifies, under state law, as a city or county general purpose committee in the City and County of San
6 Francisco.

7 (2) The Ethics Commission may require additional committees not listed in this Section to file
8 electronically through regulations adopted at least 60 days before the statement or report is due to be
9 filed.

10 SEC. 1.113. DISCLOSURE REQUIREMENTS DURING SIGNATURE GATHERING
11 PERIODS FOR INITIATIVES, REFERENDA AND RECALLS.

12 (a) In order to ensure that any person interested in the finances of
13 requirements of this Chapter and state law, any committee that is raising or spending funds to
14 support or oppose a measure during the circulation of the measure shall file supplemental
15 campaign statements with the Ethics Commission under this Section. Such committees shall file their
16 financial disclosure documents on dates that are within the time period in which signatures are
17 gathered supplemental campaign statements on the 5th and 20th day of every month in which a
18 measure is circulating in the City and County for signatures, and on the 5th day of the month following
19 the end of the circulation period if necessary to disclose contributions received or expenditures made
20 during the signature-gathering period. Each such statement shall disclose contributions received and
21 expenditures made between the end of the reporting period for the last campaign statement filed by the
22 committee and the period ending five calendar days prior to the date of filing.

23 (b) For initiatives and recalls, campaign disclosure statements shall be filed on the 15th day of
24 the signature-gathering period covering days 1–10, on the 30th day covering days 11–25, and every

30 days thereafter for the 30-day period ending five days earlier through the end of the signature-gathering period.

(c) For referenda, which have a 30-day signature gathering period, campaign disclosure statements shall be filed on the 10th day of the period covering days 1–5, on the 25th day of the period covering days 6–20, and by the 60th day after the end of the period covering days 21–30.

(d) Otherwise, campaign statements shall be completed and filed as specified in this Chapter and state law.

SEC. 1.114. CONTRIBUTION LIMITS.

(a) LIMITS ON CONTRIBUTIONS TO CANDIDATES.

(1) Per Candidate Limit. No person other than a candidate shall make, and no ~~candidate~~ ~~committee~~-campaign treasurer for a candidate committee shall solicit or accept, any contribution which will cause the total amount contributed by such person to such candidate committee in an election to exceed \$500-00.

(2) Overall Limit. No person shall make any contribution which will cause the total amount contributed by such person to all candidate committees in an election to exceed \$500-00 multiplied by the number of City elective offices to be voted on at that election.

(b) LIMITS ON CONTRIBUTIONS FROM CORPORATIONS. No corporation organized pursuant to the laws of the State of California, the United States, or any other state, territory, or foreign country, whether for profit or not, shall make a contribution to a candidate committee for City elective office, provided that nothing in this subsection shall prohibit such a corporation from establishing, administering, and soliciting contributions to a separate segregated fund to be utilized for political purposes by the corporation, provided that the separate segregated fund complies with the requirements of ~~F~~federal ~~L~~law including sections 432(e) and 441b of Title 2 of the United States Code, ~~including and~~ any subsequent amendments to those sections.

1 (c) LIMITS ON CONTRIBUTIONS TO COMMITTEES.

2 (1) Per Committee Limit. No person shall make, and no committee treasurer shall
3 solicit or accept, any contribution which will cause the total amount contributed by such
4 person to the committee to exceed \$500-~~00~~ per calendar year.

5 (2) Overall Limit. No person shall make, and no committee treasurer shall solicit or
6 accept, any contribution which will cause the total amount contributed by such person to all
7 committees to exceed \$3,000-~~00~~ per calendar year.

8 (3) Definitions. For purposes of this Subsection, "committee" shall mean any committee
9 making expenditures to support or oppose a candidate, but shall not include candidates'
10 ~~campaign~~ committees.

11 (d) AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.

12 (1) General Rule. For purposes of the contribution limits imposed by this Section and
13 Section 1.120 the contributions of an entity whose contributions are directed and controlled by
14 any individual shall be aggregated with contributions made by that individual and any other
15 entity whose contributions are directed and controlled by the same individual.

16 (2) Multiple Entity Contributions Controlled by the Same Persons. If two or more
17 entities make contributions that are directed and controlled by a majority of the same persons,
18 the contributions of those entities shall be aggregated.

19 (3) Majority-Owned Entities. Contributions made by entities that are majority-owned by
20 any person shall be aggregated with the contributions of the majority owner and all other
21 entities majority-owned by that person, unless those entities act independently in their
22 decisions to make contributions.

23 (4) Definition. For purposes of this Section, the term "entity" means any person other
24 than an individual and "majority-owned" means a direct or indirect ownership of more than 50
25 percent.

1 *(5) Effective Date. This Subsection shall take effect January 1, 2004.*

2 (e) CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of
3 contributions received from a contributor is \$100.00 or more, the committee shall not deposit
4 any contribution that causes the total amount contributed by a person to equal or exceed
5 \$100.00 unless the committee has the following information: the contributor's full name; the
6 contributor's street address; the contributor's occupation; and the name of the contributor's
7 employer or, if the contributor is self-employed, the name of the contributor's business. A
8 committee will be deemed not to have had the required contributor information at the time the
9 contribution was deposited if the required contributor information is not reported on the first
10 campaign statement on which the contribution is required to be reported.

11 (f) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other penalty,
12 each committee that receives a contribution which exceeds the limits imposed by this Section
13 or which does not comply with the requirements of this Section shall pay promptly the amount
14 received or deposited in excess of the amount permitted by this Section to the City and
15 County of San Francisco and deliver the payment to the Ethics Commission for deposit in the
16 General Fund of the City and County; provided that the Ethics Commission may provide for
17 the waiver or reduction of the forfeiture.

18 (g) RETURN-RECEIPT OF CONTRIBUTIONS. A contribution to a candidate committee or
19 committee making expenditures to support or oppose a candidate shall not be considered ~~to~~
20 ~~be~~ received if it is not cashed, negotiated, or deposited and in addition it is returned to the
21 donor before the closing date of the campaign statement on which the contribution would
22 otherwise be reported, except that a contribution to a candidate committee or committee
23 making expenditures to support or oppose a candidate made before an election at which the
24 candidate is to be voted on but after the closing date of the last campaign statement required
25 to be filed before the election shall not be considered to be deemed received if it is not

1 cashed, negotiated or deposited and is returned to the contributor within 48 hours of receipt.
2 For all committees not addressed by this section, the determination of when contributions are
3 considered to be received shall be made in accordance with the California Political Reform Act,
4 California Government Code Section 81000, et seq.

5 SEC. 1.118. PAYMENT OF ACCRUED EXPENSES.

6 (a) A candidate committee ~~who~~that accepts goods or services on credit shall pay for
7 such accrued expenses ~~in full no later than 180 calendar days after receipt of a bill or invoice and~~
8 ~~in full no later than 180 calendar days after receipt of a bill or invoice and in no event event~~
9 later than 180 calendar days after the last calendar day of the month in which the goods were
10 delivered or the services were rendered, unless it is clear from the circumstances that the
11 failure to pay is reasonably based on a good faith dispute. For purposes of this Subsection, a
12 good faith dispute shall be rebuttably presumed if the candidate committee produces the
13 following:

14 (1) Evidence that the candidate committee protested the payment of a bill no later than
15 30 calendar days after the last calendar day of the month in which the goods were delivered
16 or the services were rendered; and

17 (2) Evidence that the protest was based on the time of delivery, quality or quantity of
18 goods delivered or services rendered or the price of the goods delivered or the services
19 provided.

20 (b) The provisions of Subsection (a) do not apply to debt owed to a financial institution
21 for an outstanding credit card balance.

22 (c) Each and every calendar day any accrued expense remains partially or wholly
23 unpaid after the time periods set forth in Subsection (a) constitutes a separate violation.

24 SEC. 1.122. SOLICITATION OR ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS--
25 LIMITATIONS.

1 (a) DECLARATION OF INTENT REQUIRED. No ~~intended candidate for any City elective~~
2 ~~office, and no committee acting on behalf of a candidate or candidate committee,~~ shall solicit or
3 accept, or cause to be solicited or accepted, any contribution unless and until ~~said the~~
4 candidate ~~shall have~~ filed a declaration of intention to become a candidate for a specific City
5 elective office with the Department of Elections on a form ~~to be~~ prescribed by the Director of
6 Elections.

7 No person shall file a declaration of intention to become a candidate for more than one
8 City elective office. ~~For the purposes of this Section a committee acting on behalf of a candidate need~~
9 ~~not be controlled by or acting under the authorization of the candidate.~~

10 (b) USE OF CAMPAIGN FUNDS.

11 (~~#1~~) ~~General~~ GENERAL. Except as otherwise provided in this Chapter, funds in a
12 candidate ~~committee's~~ campaign account may be used only on behalf of the candidacy for the
13 office specified in the candidate's declaration of intention filed under Subsection (a) or for
14 expenses associated with holding that office, provided that such expenditures are reasonably
15 related to a legislative, governmental, or political purpose. Contributions solicited or accepted
16 under this Section for one ~~individual candidate~~ shall not be expended for the candidacy of any
17 other ~~individual candidate for local, state or federal office, or~~ in support of or opposition to any
18 measure or in support of or opposition to any state ballot proposition, or be donated for donations
19 to a charitable organization. Nothing in this section shall prohibit a candidate committee for a
20 candidate in a ranked choice election from expending funds to support the ranking of another
21 candidate if the primary purpose of the expenditure is to further the candidate's own
22 campaign.

23 (~~#2~~) ~~Withdrawal from candidacy~~ WITHDRAWAL FROM CANDIDACY. If a candidate has
24 withdrawn his or her candidacy, Campaign funds held by that candidate's committee's Campaign
25

1 Contribution Trust Account ~~an individual who ceases to be a candidate or fails to qualify for an office~~
2 ~~for which contributions have been solicited or accepted shall be:~~

3 (A) returned on a "last in, first out" basis to those persons who have made said
4 contributions;

5 (B) donated to the City and County of San Francisco; ~~or~~

6 (C) donated to a charitable organization; ~~or~~

7 (D) used to pay outstanding campaign debts or accrued expenses;

8 (E) used to pay expenses associated with terminating the committee, such as bookkeeping, legal
9 fees, preparation of campaign statements, and audits; or

10 (F) used for other permissible purposes established by the Ethics Commission by regulation.

11 ~~(e3) SURPLUS FUNDS CANDIDATES DEFEATED OR DEPARTED FROM ELECTED~~
12 ~~OFFICE. Surplus funds held by a candidate or committee shall be~~ If a candidate has been defeated in
13 an election or has departed from City elective office, campaign funds held by that candidate's
14 committee's Campaign Contribution Trust Account shall be:

15 ~~(iA) R~~ returned on a "last in, first out" basis to those persons who have made said
16 contributions;

17 ~~(#B) D~~ donated to a charitable organization; ~~or~~

18 ~~(#C) D~~ donated to the City and County of San Francisco; ~~or~~

19 (D) used to pay outstanding campaign debts or accrued expenses;

20 (E) used to pay expenses associated with terminating the committee, such as bookkeeping, legal
21 fees, preparation of campaign statements, and audits; or

22 (F) used for other permissible purposes established by the Ethics Commission by regulation.

23 ~~(e4) TRANSFER OF FUNDS. Subject to the restrictions set forth in Subsection (b), At any~~
24 ~~time, funds held in a candidate~~ committee's e Campaign Contribution Trust a Account may be
25 transferred to any legally constituted committee established by ~~or on behalf of~~ the candidate

under the Government Code of the State of California (commencing at Section 81000) California Political Reform Act, California Government Code section 81000 et seq. Contributions transferred under this subsection shall be attributed to specific contributors using a "first in, first out" or "last in, first out" accounting method.

SEC. 1.128. ACCEPTANCE OR REJECTION OF VOLUNTARY EXPENDITURE
CEILINGS.

(a) Candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District may accept the applicable voluntary expenditure ceiling. Candidates for the Board of Supervisors or Mayor may not accept a voluntary expenditure ceiling.

(ab) All candidates for City elective office To accept the applicable voluntary expenditure ceiling, a candidate must file a statement with the Ethics Commission indicating whether they accepting or do not accept the applicable voluntary expenditure ceiling. Their candidate statement, which is a public document, shall be filed this statement no later than the deadline for filing nomination papers with the Department of Elections, and may not be withdrawn after such deadline. A candidate may not withdraw the statement accepting the voluntary expenditure ceiling after filing the statement. The form may not be filed prior to June 1 of an election occurring in November or 120 days before an election held at any other time, and once filed may not be withdrawn. A candidate may not accept or reject the applicable expenditure ceiling under this Section if the applicable expenditure ceiling has already been lifted. A candidate may not file the statement accepting the applicable voluntary expenditure ceiling if the Ethics Commission has lifted the voluntary expenditure ceiling under Section 1.134 of this Chapter.

The Director of Elections shall cause to be published in the Voter Information Pamphlet, on the same page as appears the candidate's statement of qualifications, a notice informing voters whether the

1 candidate has accepted the voluntary expenditure ceiling. For candidates who have accepted the
2 voluntary expenditure ceiling, the notice shall state: "The above candidate has accepted the City's
3 voluntary spending limit." For candidates who have not accepted the voluntary expenditure ceiling, the
4 notice shall state: "The above candidate has NOT accepted the City's voluntary spending limit." If a
5 candidate was precluded from accepting or rejecting the limits because the expenditure ceiling for a
6 particular race was lifted under Section 1.134 of this Chapter before the candidate filed the statement
7 required by this Section, the notice for that candidate shall state "The voluntary spending limit was
8 lifted before this candidate decided whether to accept or not accept the limit." The notice shall be
9 printed in the same font size and type as the candidate's statement of qualifications. Nothing in this
10 subsection shall prevent a candidate from participating in a public financing program authorized by
11 this Chapter.

12 (c) The Ethics Commission shall maintain, on its website, a list of the candidates who have
13 accepted the voluntary expenditure ceiling. If the Ethics Commission has lifted a voluntary expenditure
14 ceiling for a particular race under Section 1.134 of this Chapter, the Ethics Commission shall instead
15 maintain a list of the candidates who have accepted, but are no longer subject to the voluntary
16 expenditure ceiling in that race.

17 (hd) Any candidate who files a statement pursuant to this Section accepting has accepted the
18 applicable voluntary expenditure ceiling and makes qualified campaign expenditures in excess
19 of the voluntary expenditure ceiling, at a time when the Ethics Commission has not lifted the
20 applicable voluntary expenditure ceiling has not been lifted, is subject to the penalties in Section
21 1.170 for violation of this Chapter.

22 SEC. 1.130. AMOUNT OF VOLUNTARY EXPENDITURE CEILINGS.

23 (a) Any candidate for Assessor, Public Defender, City Attorney, District Attorney,
24 Treasurer, or Sheriff who agrees to accept voluntary expenditure ceilings shall not make total
25

qualified campaign expenditures exceeding ~~\$229,000.00~~243,000, unless the Ethics Commission has lifted the voluntary expenditure ceiling pursuant to Section 1.134 of this Chapter.

(b) Any candidate for Mayor who agrees to expenditure ceilings shall not make total qualified campaign expenditures exceeding \$724,000.00.

(c) Any candidate for the Board of Supervisors who agrees to expenditure ceilings shall not make total qualified campaign expenditures exceeding \$140,000.00.

(d) Any candidate for the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District who agrees to accept voluntary expenditure ceilings shall not make total qualified campaign expenditures exceeding ~~\$98,000.00~~104,000, unless the Ethics Commission has lifted the voluntary expenditure ceiling pursuant to Section 1.134 of this Chapter.

(e) The Ethics Commission is authorized to adjust annually by regulation the voluntary expenditure ceilings imposed by this Section to reflect the change in the California Consumer Price Index for that year, provided that such adjustments shall be rounded off to the nearest \$1,000.

SEC. 1.134. LIFTING OF VOLUNTARY EXPENDITURE CEILINGS LIFTED;
SUPPLEMENTAL REPORTING IN ELECTIONS FOR ASSESSOR, PUBLIC DEFENDER, CITY
ATTORNEY, DISTRICT ATTORNEY, TREASURER, SHERIFF, THE BOARD OF EDUCATION OF
THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT, OR THE GOVERNING BOARD OF THE SAN
FRANCISCO COMMUNITY COLLEGE DISTRICT.

This Section shall apply only if at least one candidate for the City elective office has filed a statement with the Ethics Commission pursuant to Section 1.128 indicating acceptance of accepted the applicable voluntary expenditure ~~limits~~-ceiling, and the Ethics Commission has not ~~lifted applicable that voluntary~~ expenditure ~~limit~~-ceiling ~~has not already been lifted~~. This Section applies only to candidates for Assessor, Public Defender, City Attorney, District Attorney, Treasurer,

1 Sheriff, the Board of Education of the San Francisco Unified School District, or the Governing Board
2 of the San Francisco Community College District.

3 (a) The voluntary expenditure ceiling shall no longer be binding on a candidate:

4 (1) if a candidate seeking election to the same City elective office, who has filed a statement
5 under Section 1.128 declining~~declined~~ to accept the voluntary expenditure ceilings, receives
6 contributions or makes qualified campaign expenditures in excess of 100 percent of the
7 applicable voluntary expenditure ceiling, ~~or~~

8 (2) if a person or persons make expenditures or payments, or incur expenses for the
9 purpose of making independent expenditures, electioneering communications or member
10 communications ~~in support of or in opposition to a candidate~~ that total more than 100 percent of
11 the applicable voluntary expenditure ceiling, and those expenditures or communications clearly
12 identify a candidate seeking election to the same City elective office, or

13 (3) if a candidate seeking election to the same City elective office, who has accepted the
14 voluntary expenditure ceiling, makes qualified campaign expenditures in excess of 100 percent of the
15 voluntary expenditure ceiling, ~~the applicable expenditure limit voluntary expenditure ceiling shall no~~
16 ~~longer be binding on any candidate seeking election to the same City elective office. This subsection~~
17 ~~shall not apply to a candidate for Mayor or the Board of Supervisors who has been certified by the~~
18 ~~Ethics Commission as eligible to receive public funds under this Chapter and is therefore subject to an~~
19 ~~Individual Expenditure Ceiling.~~

20 (b) Any candidate ~~committee that who has not accepted the voluntary expenditure ceiling and~~
21 ~~who~~ receives contributions, makes qualified campaign expenditures, incurs expenses or has
22 funds in ~~his~~ its ~~Campaign Contribution Trust~~ Account that ~~exceed~~ total more than 100 percent
23 of the applicable voluntary expenditure ceiling shall, within 24 hours of exceeding 100 percent
24 of the applicable voluntary expenditure ceiling, file a statement with the Ethics Commission, on
25 forms to be provided by the Ethics Commission, stating that fact and any additional

1 information required by the Ethics Commission. *Within 24 hours after receiving such notice, the*
2 *Ethics Commission shall inform every other candidate for that office that the expenditure ceiling has*
3 *been lifted.*

4 (c) Any person *other than a candidate committee who that* makes expenditures or
5 payments, or incurs expenses for the purpose of making-distributing independent expenditures,
6 electioneering communications or member communications *in support of or in opposition to that*
7 clearly identify any candidate in an amount *of that in the aggregate equals or exceeds \$5,000.00 or*
8 *more per candidate* shall, within 24 hours of reaching *or exceeding* this threshold, file a statement
9 with the Ethics Commission, *on forms to be provided by the Ethics Commission.* The statement
10 shall include a legible copy of the communication if it is conveyed in writing or an electronic recording
11 if it is conveyed via audio or video, disclose the cost of each communication, and provide any
12 additional information stating that fact and any additional information required by the Ethics
13 Commission.

14 Thereafter, until *such time as the Ethics Commission lifts the applicable voluntary*
15 *expenditure ceiling is lifted*, any such person shall file a supplemental statement with the
16 Ethics Commission each time the committeeperson makes expenditures *or payments or incurs*
17 *expenses* for the purpose of making-distributing independent expenditures, electioneering
18 communications or member communications *or incurs expenses in support of or in opposition that*
19 clearly identify *to* any candidate *in an amount that in the aggregate equals or exceeds of an*
20 *additional \$5,000.00 per candidate.* The supplemental statements shall be filed within 24 hours
21 of reaching *or exceeding these spending this* thresholds, and shall include a legible copy of the
22 communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or
23 video, disclose the cost of each communication, and provide any additional information required by the
24 Ethics Commission. *This subsection shall not apply to any expenditures, payments, or expenses*
25 *incurred for the purpose of making independent expenditures, electioneering communications or*

1 member communications in support of or in opposition to any candidate for Mayor or the Board of
2 Supervisors if the Ethics Commission has certified that at least one candidate for Mayor or the Board
3 of Supervisors is eligible to receive public funds under this Chapter.

4 (d) Within one business day after receiving a notice indicating that the thresholds in subsection
5 (a) have been met, the Ethics Commission shall inform every candidate in the same race that the
6 expenditure ceiling has been lifted.

7 SEC. 1.135. SUPPLEMENTAL ~~REPORTING~~PRE-ELECTION STATEMENTS.

8 (a) Supplemental Preelection Statements. In addition to the campaign disclosure
9 requirements imposed by the California Political Reform Act and other provisions of this
10 Chapter, all San Francisco general purpose committees shall file preelection statements
11 before any election held in the City and County of San Francisco at which a candidate for City
12 elective office or City measure is on the ballot, if the committee makes contributions or
13 independent expenditures totaling ~~five hundred dollars (\$500.00)~~ or more during the period
14 covered by the preelection statement.

15 (b) Time for Filing Supplemental Preelection Statements. In even-numbered years,
16 Preelection statements required by this Section shall be filed pursuant to the preelection
17 statement filing schedule established by the Fair Political Practices Commission for county general
18 purpose recipient committees. In odd-numbered years, the filing schedule is as follows:

19 (1) For the period ending 45 days before the election, the statement shall be filed no
20 later than 40 days before the election;

21 (2) For the period ending 17 days before the election, the statement shall be filed no
22 later than 12 days before the election.

23 (c) The Ethics Commission may require that these statements be filed electronically.

24 SEC. 1.136. PUBLIC FINANCING OF CANDIDATES FOR THE BOARD OF
25 SUPERVISORS OR MAYOR.

Candidates for the Board of Supervisors or Mayor who ~~are certified by~~ the Ethics Commission certifies as eligible to receive public financing of their election campaigns, and who comply with the applicable conditions and restrictions specified in Section 1.140 of this Chapter, may receive public funds as provided in this Chapter to defray the costs of their election campaigns.

SEC. 1.140. ELIGIBILITY TO RECEIVE PUBLIC FINANCING.

(a) REQUIREMENTS FOR ALL CANDIDATES. To be eligible to receive public financing of campaign expenses under this Chapter, ~~all~~ a candidates must:

(1) Have filed a statement indicating that he or she intends to participate in the public financing program under Section 1.142 of this Chapter.

(2) Agree to the following conditions:

(A) The candidate bears the burden of providing that each contribution the candidate relies upon to establish eligibility is a qualifying contribution;

(B) The candidate bears the burden of proving that expenditures made with public funds provided under this Chapter comply with Section 1.148 of this Chapter;

(C) The candidate will not make any payments to a contractor or vendor in return for the contractor or vendor making a campaign contribution to the candidate or make more than a total of 50 payments, other than the return of a contribution, to contractors or vendor that have made contributions to the candidate;

(D) Notwithstanding Sections 1.114 and 1.116, the candidate shall not loan or donate, in total, more than ~~\$15,000.00~~ of his or her own money to the campaign;

(E) The candidate shall not accept any loans to his or her campaign with the exception of a candidate's loan to his or her own campaign as permitted by this Section; and

(F) The candidate shall agree to participate in at least three ~~(3)~~ debates with the candidate's opponents.

1 (3) Have paid any outstanding late fines or penalties, owed to the City by the candidate
2 or any of the candidate's previous campaign committees, which were imposed for violations of
3 ~~Chapters 1 through 5 of this Article, Code or~~ the campaign finance provisions of the California
4 Political Reform Act (Government Code Sections 84100– 85704); ~~Chapter 1 of Article II of this~~
5 ~~Code or Chapters 1 or 2 of Article III of this Code~~, provided that the Ethics Commission had
6 notified the candidate of such fines or penalties by the time of certification.

7 (4) Have filed any outstanding forms, owed to the City by the candidate or any of the
8 candidate's previous campaign committees, which were required to be filed pursuant to
9 ~~Chapters 1 through 5 of this Article, Code or~~ the campaign finance provisions of the Political
10 Reform Act (Government Code Sections 84100– 85704); ~~or Chapter 1, Article III of this Code~~,
11 provided that the Ethics Commission had notified the candidate of such outstanding forms by
12 the time of certification.

13 (5) Have no finding by a court or by the Ethics Commission after a hearing on the
14 merits, within the prior five years, that the candidate knowingly, willfully, or intentionally
15 violated ~~Chapters 1 through 4 any Section of this Article Code~~ or the campaign finance provisions
16 of this California Political Reform Act (Government Code Sections 84100– 85704). For
17 purposes of this Section, a plea of nolo contendere ~~shall be treated the same as constitutes a~~
18 finding by a court of a willful violation.

19 (b) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR THE BOARD OF
20 SUPERVISORS. To be eligible to receive public financing of campaign expenses under this
21 Chapter, a candidate for the Board of Supervisors must:

22 (1) Be seeking election to the Board of Supervisors and be eligible to hold the office
23 sought;

24 (2) Have a candidate committee that has received at least \$5,000-~~00~~ in qualifying
25 contributions from at least 75 contributors before the 70th day before the election;

(3) Be opposed by another candidate who has either established eligibility to receive public financing, or whose candidate committee has received contributions or made expenditures which in the aggregate equal or exceed \$5,000.00; and

(4) Agree that ~~the his or her~~ candidate committee will not ~~spend on the candidate's campaign~~ make qualified campaign expenditures that total more than the candidate's Individual Expenditure Ceiling of ~~\$143,000~~\$140,000.00, or as adjusted under Section ~~1-134.51~~ 1.143 of this Chapter.

(c) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR MAYOR. To be eligible to receive public financing of campaign expenses under this Chapter, a candidate for Mayor must:

(1) Be seeking election to the office of Mayor and be eligible to hold the office sought;

(2) Have a candidate committee that has received at least \$25,000.00 in qualifying contributions from at least 250 contributors by the 70th day before the election.

(3) Be opposed by another candidate who has either established eligibility to receive public financing, or whose candidate committee has received contributions or made expenditures that in the aggregate equal or exceed \$50,000.00; and

(4) Agree that ~~the his or her~~ candidate committee will not ~~spend on the candidate's campaign~~ make qualified campaign expenditures that total more than the candidate's Individual Expenditure Ceiling of ~~\$1,475,000~~ \$1,375,000.00, or as adjusted under Section ~~1-134.51~~ 1.143 of this Chapter.

(d) ADJUSTMENT OF EXPENDITURE LIMITS AND THRESHOLDS. ~~Whenever the Ethics Commission pursuant to Section 1-130 adjusts the voluntary expenditure ceilings to reflect changes in the California Consumer Price Index,~~ The Ethics Commission is authorized to adjust:

(1) The figures in Subsections (b)(4) and (c)(4) to ~~match the adjusted voluntary expenditure ceilings in Section 1-130~~ reflect changes in the California Consumer Price Index, provided that such adjustments shall be rounded off to the nearest \$1,000 for candidates for the Board of Supervisors and the nearest \$5,000 for candidates for Mayor;

1 (2) The figure in Subsection (a)(2)(D) of this Section to reflect changes in the California
2 Consumer Price Index, provided that such adjustments shall be rounded off to the nearest
3 \$1,000.00;

4 (3) The figures in Subsections (b)(2) and (b)(3) of this Section to reflect changes in the
5 California Consumer Price Index, provided that such adjustments shall be rounded off to the
6 nearest \$500.00;

7 (4) The figures in Subsections (c)(2) and (c)(3) of this Section to reflect changes in the
8 California Consumer Price Index, provided that such adjustments shall be rounded off to the
9 nearest \$5,000.00; and

10 (5) The maximum amount of a contribution that constitutes a qualifying contribution
11 pursuant to Section 1.104 to reflect changes in the California Consumer Price Index, provided
12 that such adjustments shall be rounded off to the nearest \$10.00.

13 SEC. 1.142. PROCESS FOR ESTABLISHING ELIGIBILITY; CERTIFICATION BY THE
14 ETHICS COMMISSION.

15 (a) STATEMENT OF PARTICIPATION OR NON-PARTICIPATION. Each candidate for
16 the Board of Supervisors or Mayor must sign and ~~verify under penalty of perjury~~ file a Statement
17 of Participation or Non-Participation in the public financing program. The statement must be
18 filed by the candidate with the Ethics Commission no later than the deadline for filing
19 nomination papers. On the statement, each candidate shall indicate whether he or she intends
20 to participate in the public financing program. A statement of participation or non-participation
21 may not be amended after the deadline for filing nomination papers; ~~provided that, prior to~~
22 ~~December 31, 2007, any candidate for the Board of Supervisors who has filed a Statement of Non-~~
23 ~~Participation may retract that Statement and file a Statement of Participation in the public financing~~
24 ~~program.~~

1 (b) DECLARATION BY CANDIDATE. To become eligible to receive public financing of
2 campaign expenses under this Chapter, a candidate shall declare, under penalty of perjury,
3 that the candidate satisfies the requirements specified in Section 1.140. Candidates shall be
4 permitted to submit the declaration and any supporting material required by the Ethics
5 Commission to the Ethics Commission starting no earlier than nine (9) months before the date
6 of the election, but no later than the 70th day before the election. Once the declaration and
7 supporting material are submitted, they may not be amended. The declaration and supporting
8 material may be withdrawn and refiled, provided that the refiling is made no later than the 70th
9 day before the election.

10 If any deadline imposed by this Subsection falls on a Saturday, Sunday, or legal
11 holiday, the deadline shall be the next business day.

12 (c) DETERMINATION OF ELIGIBILITY. The Executive Director of the Ethics
13 Commission shall review the candidate's declaration and supporting material to determine
14 whether the candidate is eligible to receive public funds under this Chapter. The Executive
15 Director may audit the candidate's records, interview contributors and take whatever steps the
16 Executive Director deems necessary to determine eligibility. At the request of the Executive
17 Director, the Controller shall assist in this review process.

18 (d) DETERMINATION OF OPPOSITION. To determine whether a candidate for the
19 Board of Supervisors is opposed as required under Section 1.140(b)(3) of this Chapter or a
20 candidate for Mayor is opposed as required under Section 1.140(c)(3) of this Chapter, the
21 Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter,
22 and may review any other material.

23 (e) CERTIFICATION. If the Executive Director determines that a candidate for Mayor or
24 the Board of Supervisors has satisfied the requirements of Section 1.140, the Executive
25 Director shall notify the candidate and certify to the Controller that the candidate is eligible to

1 receive public financing under this Chapter. The Executive Director shall not certify that a
2 candidate is eligible to receive public financing if the candidate's declaration or supporting
3 material is incomplete or otherwise inadequate to establish eligibility. The Executive Director
4 shall determine whether to certify a candidate no later than 30 days after the date the
5 candidate submits his or her declaration and supporting material, provided that the Executive
6 Director shall make all determinations regarding whether to certify a candidate no later than
7 the 55th day before the election.

8 (f) RESUBMISSION. If the Executive Director declines to certify that a candidate is
9 eligible to receive public financing under this Chapter, the Executive Director shall notify the
10 candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five
11 business days of the date of notification, resubmit the declaration and supporting material. If
12 the candidate does not timely resubmit, the Executive Director's determination is final.

13 If, after viewing resubmitted material, the Executive Director declines to certify that a
14 candidate is eligible to receive public financing under this Chapter, the Executive Director
15 shall notify the candidate of this fact. Additional resubmissions may be permitted in the
16 Executive Director's discretion. If the candidate fails to resubmit in the time specified by the
17 Executive Director, or if no further resubmissions are permitted, the Executive Director's
18 determination is final.

19 (g) APPEAL TO THE ETHICS COMMISSION. If, the Executive Director declines to
20 certify that a candidate is eligible to receive public financing under this Chapter, the candidate
21 may appeal the Executive Director's final determination to the Ethics Commission. The
22 candidate must deliver the written appeal to the Ethics Commission within five days of the
23 date of notification of the Executive Director's determination.

24 SEC. 1.144. DISBURSEMENT OF PUBLIC FUNDS—~~CANDIDATES FOR THE BOARD~~
25 ~~OF SUPERVISORS.~~

1 (a) PAYMENT BY CONTROLLER. Upon certifying that a candidate is eligible to
2 receive public financing under this Chapter, the Executive Director shall forward the
3 certification to the Controller, and the Controller shall disburse payments to the candidate from
4 the Election Campaign Fund in accordance with the certification and this Section.

5 (b) TIME OF PAYMENTS. The Controller shall not make any payments under this
6 Chapter to any candidate more than nine ~~(9)~~ months before the date of the election. Payments
7 from the Controller shall be disbursed to eligible candidates within ~~48 hours~~ two business days of
8 the Controller receiving notification from the Ethics Commission regarding the amount of the
9 disbursement, except that within ~~60~~ fifteen calendar days before the election, such payments
10 shall be made within ~~24 hours~~ one business day.

11 (c) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR MAYOR.

12 (1) Until the Per Candidate Available Disbursement Limit has been determined,
13 candidates for Mayor whom ~~have been certified by~~ the Ethics Commission has certified as eligible
14 to receive public financing for their election campaigns will have access to up to
15 ~~\$850,000.00~~ \$50,000.00 in funds from the Election Campaign Fund on a first come, first
16 served basis according to the formula set forth in Subsection (c)(3) of this Section.

17 (2) Once the Per Candidate Available Disbursement Limit has been determined,
18 candidates for Mayor whom ~~have been certified by~~ the Ethics Commission has certified as eligible
19 to receive public financing for their election campaigns shall have access to funds from the
20 Election Campaign Fund as follows:

21 (A) If the Executive Director determines that the Per Candidate Available Disbursement
22 Limit is greater than ~~\$850,000.00~~ \$50,000.00, each participating candidate shall have
23 access to the amount of the Per Candidate Disbursement, subject to the limitations set forth
24 under Subsection (c)(3)(D) and (c)(3)(E) of this Section.

(B) If the Executive Director determines the Per Candidate Available Disbursement Limit is less than or equal to ~~\$850,000.00~~950,000.00, participating candidates shall have access to funds from the Election Campaign Fund on a first come, first served basis up to a maximum per candidate of ~~\$850,000.00~~950,000.00.

(3) A candidate for Mayor who is certified as eligible to receive public financing under this Chapter shall receive payments for eligible matching contributions according to the following formula:

(A) Upon qualification the candidate shall receive a one-time payment of ~~\$50,000.00~~ from the Election Campaign Fund.

(B) After the initial payment under Subsection (c)(3)(A), for the first ~~\$100,000.00~~ in matching contributions raised by the candidate, the candidate shall receive four dollars from the Election Campaign Fund for each dollar raised.

(C) After the payments under Subsection (c)(3)(B), for the next ~~\$100,000.00~~500,000.00 in matching contributions raised by the candidate, the candidate shall receive one dollar from the Election Campaign Fund for each dollar raised.

(D) The maximum amount of public funds a mayoral candidate may receive is ~~\$850,000.00~~950,000.00, unless the candidate's Individual Expenditure Ceiling is ~~lifted~~ adjusted according to the rules set forth under Section ~~1.134.51~~ 1.143. ~~The amount of public funds paid under this Section shall not be affected by the lifting of expenditure limits under Section 1.134.~~

(E) If the Per Candidate Available Disbursement Limit has been determined to be an amount greater than ~~\$850,000.00~~950,000.00, a candidate who has already received at least ~~\$850,000.00~~950,000.00 in disbursements from the City shall continue to be eligible to receive public funds from the City at the rate of one dollar for each dollar of a matching contribution raised up to the Per Candidate Disbursement Limit, provided that no funds shall

be disbursed if disbursement of the funds would result in the candidate exceeding his or her Trust Account Limit.

(d) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR THE BOARD OF SUPERVISORS.

(1) Until the Per Candidate Available Disbursement Limit has been determined, candidates for the Board of Supervisors who ~~have been certified by~~ the Ethics Commission has certified as eligible to receive public financing for their election campaigns will have access to up to ~~\$87,500.00~~\$89,000 in funds from the ~~Mayoral~~ Election Campaign Fund on a first come, first served basis according to the formula set forth in Subsection (d)(3) of this Section.

(2) Once the Per Candidate Available Disbursement Limit has been determined, candidates for the Board of Supervisors who ~~have been certified by~~ the Ethics Commission has certified as eligible to receive public financing for their election campaigns shall have access to funds from the Election Campaign Fund as follows:

(A) If the Executive Director determines that the Per Candidate Available Disbursement Limit is greater than ~~\$87,500.00~~\$89,000, each participating candidate shall have access to the amount of the Per Candidate Disbursement, subject to the limitations set forth under Subsection (d)(3)(D) and (d)(3)(E) of this Section.

(B) If the Executive Director determines the Per Candidate Available Disbursement Limit is less than or equal to ~~\$87,500.00~~\$89,000, participating candidates shall have access to funds from the Election Campaign Fund on a first come, first served basis up to a maximum per candidate of ~~\$87,500.00~~\$89,000.

(3) A candidate for the Board of Supervisors who is certified as eligible to receive public financing under this Chapter shall receive payments for eligible matching contributions according to the following formula:

1 (A) Upon qualification the candidate shall receive a one-time payment of \$10,000-~~00~~
2 from the Election Campaign Fund.

3 (B) After the initial payment under Subsection (d)(3)(A), for the first \$10,000-~~00~~ in
4 matching contributions raised by the candidate, the candidate shall receive four dollars from
5 the Election Campaign Fund for each dollar raised.

6 (C) After the payments under Subsection (d)(3)(B), for the next ~~\$37,500.00~~ \$39,000 in
7 matching contributions raised by the candidate, the candidate shall receive one dollar from the
8 Election Campaign Fund for each dollar raised.

9 (D) The maximum amount of public funds a candidate for the Board of Supervisors
10 may receive is ~~\$87,500.00~~ \$89,000, unless the candidate's Individual Expenditure Ceiling is
11 ~~adjusted lifted~~ according to the rules set forth under Section ~~1.134.51.143~~. ~~The amount of public~~
12 ~~funds paid under this Section shall not be affected by the lifting of expenditure limits under Section~~
13 ~~1.134.~~

14 (E) If the Per Candidate Available Disbursement Limit has been determined to be an
15 amount greater than ~~\$87,500.00~~ \$89,000, a candidate who has already received at least
16 ~~\$87,500.00~~ \$89,000 in disbursements from the City shall continue to be eligible to receive public
17 funds from the City at the rate of one dollar for each dollar of a matching contribution raised
18 up to the Per Candidate Disbursement Limit, provided that no funds shall be disbursed if
19 disbursement of the funds would result in the candidate exceeding his or her Trust Account
20 Limit.

21 (e) PER CANDIDATE AVAILABLE DISBURSEMENT LIMIT. On the 59th day before
22 the election, the Executive Director shall divide the total amount of non-administrative funds in
23 the Election Campaign Fund by the number of qualified candidates. This number shall be
24 deemed the Per Candidate Available Disbursement Limit. For the purposes of this section, the
25 total amount of non-administrative funds in the Election Campaign Fund shall be the total

1 amount of funds that existed in the Fund nine months before the date of election plus any
2 funds deposited into the Fund between that date and the 59th day before the election minus
3 any funds necessary to cover the administrative costs associated with implementing the public
4 financing program for the next election.

5 If there are candidates who have submitted a Declaration of Qualification but whose
6 eligibility has not been determined as of the 59th day before the election, the Executive
7 Director shall assume that they are qualified for the purposes of determining the Per
8 Candidate Available Disbursement Limit. The Per Candidate Available Disbursement Limit
9 shall be revised upward according to the formula above if and when it is determined that the
10 candidate or candidates in question did not qualify to receive public financing.

11 Immediately upon calculating the Per Candidate Available Disbursement Limit, the
12 Executive Director shall inform the Controller of the initial determination of the Per Candidate
13 Available Disbursement Limit. Thereafter, the Executive Director shall immediately inform the
14 Controller of any subsequent changes in the Per Candidate Available Disbursement Limit due
15 to a determination that a candidate has not qualified to receive public financing.

16 (f) SUBMISSION OF CLAIMS FOR PUBLIC FUNDS. The Ethics Commission shall
17 determine the information needed to submit a claim for payment of public funds. The
18 Executive Director shall certify each request for payment of public funds within four business
19 days of the request, except that within 14 calendar days before the election, when the
20 certification of a request for public funds shall be made within two business days of the
21 request. No candidate may submit a claim for public funds if the candidate has any such claims
22 pending with the Ethics Commission. For candidates for Mayor, any submission of a claim for
23 public funds must include a minimum of \$5,000-~~00~~ of matching contributions; provided that in
24 the 14 calendar days preceding an election, a claim must include a minimum of \$1,000-~~00~~ of
25 matching contributions. For candidates for the Board of Supervisors, any submission of a

claim for public funds must include a minimum of ~~\$500.00~~1,000 of matching contributions; provided that in the 14 calendar days preceding an election, a claim must include a minimum of ~~\$100.00~~200 of matching contributions. All claims for public funds must be submitted no later than 5:00 p.m. on the 30th day following the date of the election.

(g) DEPOSIT IN CAMPAIGN CONTRIBUTION TRUST ACCOUNT. ~~A candidate~~ must deposit all payments received from the Election Campaign Fund in ~~the~~ his or her candidate committee's Campaign Contribution Trust Account.

SEC. 1.146. TERMINATION OF PAYMENTS.

The Controller shall terminate all payments to a candidate who is otherwise eligible to receive public financing if the candidate or the candidate's committee:

(a) Withdraws or fails to qualify to have his or her name printed on the ballot for the election for which the candidate applied for public financing;

(b) Fails to comply with the conditions specified in Section 1.140 of this Chapter; or

(c) Knowingly or willfully fails to comply with any of the reporting requirements imposed by this Chapter or the Political Reform Act, California Government Code Section 81000, et seq.

SEC. 1.148. RESTRICTIONS ON USE OF PUBLIC FUNDS; UNEXPENDED PUBLIC FUNDS.

(a) USE FOR QUALIFIED CAMPAIGN EXPENDITURES ONLY. Candidates who receive public financing may use the public funds solely to pay for qualified campaign expenditures, ~~as defined by Section 1.104 of this Chapter~~, and to repay loans used to pay for qualified campaign expenditures except that public funds may be used to pay filing fees and costs incurred after the election that do not directly affect the outcome of the election, including but not limited to utility bills, expenses associated with an audit, and expenses related to preparing post-election campaign finance disclosure reports as required by the

1 California Political Reform Act, Government Code Section 81000, et seq., and the provisions
2 of this Chapter. Candidates may not use public funds to pay for expenses incurred in
3 connection with an administrative or judicial proceeding. Candidates may not use public funds
4 to pay administrative, civil or criminal fines, including late filing fines, or to pay for inaugural
5 activities or officeholder expenses. Candidates may not use public funds to pay post-election
6 bonuses to campaign employees or for election victory celebrations or similar post-election
7 campaign events.

8 ~~(b) PURCHASE OF EQUIPMENT. Any equipment purchased by a candidate with public funds~~
9 ~~provided under this Chapter that has a useful life beyond the election campaign for which the funds~~
10 ~~were provided, and a fair market value exceeding \$100.00, becomes City and County property on the~~
11 ~~day following the date the candidate is elected or not elected to office.~~

12 (e) WITHDRAWAL OR FAILURE TO QUALIFY. Any candidate who receives public
13 financing but who withdraws or fails to qualify to have his or her name printed on the ballot in
14 the election for which the public funds were provided shall repay the Election Campaign Fund
15 the full sum received from the Fund.

16 (d) UNEXPENDED PUBLIC FUNDS.

17 ~~(i) General.~~ Any candidate who receives public financing and who se committee has
18 unexpended public funds shall pay to the City and County of San Francisco and deliver to the
19 Ethics Commission those funds for deposit in the Election Campaign Fund no later than 30
20 days after the Ethics Commission completes its audit of the candidate's committee.
21 Unexpended funds may be used to pay for expenses associated with an audit such as bank
22 fees, treasurer fees and storage fees until the Ethics Commission completes its audit of the
23 candidate's committee.

24 ~~(ii) Definition. For purposes of this Section, unexpended public funds shall mean all funds~~
25 ~~remaining in the candidate's account on the 30th day after the candidate is elected or not elected to~~

1 office, regardless of the source of the funds, but shall not exceed the amount of public funds provided to
2 the candidate. Funds raised after this date do not constitute unexpended funds and may be used for any
3 lawful purpose.

4 SEC. 1.150. AUDIT; REPAYMENT.

5 (a) AUDIT. The Ethics Commission shall audit all candidate committees whose candidates
6 have received public financing under this Chapter. Audits of candidate committees conducted
7 under this Subsection shall begin within 60 days after the date the candidate committees' first
8 post-election campaign disclosure report is required to be filed pursuant to Section 1.106 of
9 this Chapter. In his or her discretion, the Executive Director may initiate additional targeted or
10 randomly selected audits of any committee, irrespective of whether the committee received any public
11 funds. At the request of the Executive Director, the Controller shall assist in conducting these
12 audits.

13 (b) REPAYMENT.

14 (1) If the Ethics Commission determines that any portion of the payments made to a
15 candidate from the Election Campaign Fund exceeded the aggregate amount of payments to
16 which the candidate was entitled under this Chapter, the Commission shall notify the
17 Controller and the candidate. In addition to any other penalties, the candidate shall pay to the
18 City and County of San Francisco, and deliver to the Ethics Commission an amount equal to
19 the amount of the excess payments, and if the Commission determines that any amount of
20 any payment made to a candidate from the Election Campaign Fund was used for something
21 other than qualified campaign expenditures, the candidate shall pay to the Ethics Commission
22 an amount equal to the improper expenditure.

23 (2) Any candidate who receives public funds under this Chapter and exceeds his or her
24 Individual Expenditure Ceiling by ten percent or more shall, in addition to any other penalties,
25

1 pay to the Ethics Commission an amount equal to the amount of public funds the candidate
2 received under this Chapter.

3 (3) All payments delivered to the Ethics Commission under this Section shall be
4 deposited in the Election Campaign Fund.

5 SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF
6 SUPERVISORS AND MAYOR.

7 (a) ELECTIONS FOR THE BOARD OF SUPERVISORS.

8 (1) In addition to the campaign disclosure requirements imposed by the California
9 Political Reform Act and other provisions of this Chapter, each candidate committee supporting
10 a candidate for the Board of Supervisors shall file a statement with the Ethics Commission
11 indicating when the ~~candidate~~ committee has received contributions to be deposited into its
12 Campaign Contribution Trust Account; ~~or made expenditures or has funds in his or her Campaign~~
13 ~~Contribution Trust Account~~ that ~~in the aggregate~~ equal or exceed \$5,000.~~00~~ within 24 hours of
14 reaching or exceeding that amount.

15 (2) In addition to the supplemental report in Subsection (a)(1) of this Section, each
16 candidate committee supporting a candidate for the Board of Supervisors shall file a statement
17 with the Ethics Commission disclosing when the ~~candidate~~ committee has received
18 contributions to be deposited into its Campaign Contribution Trust Account; ~~or made expenditures~~
19 ~~or has funds in his or her Campaign Contribution Trust Account~~ that in the aggregate equal or
20 exceed \$100,000.~~00~~. The candidate committee shall file this report within 24 hours of reaching
21 or exceeding the threshold. Thereafter, the candidate committee shall file an additional
22 supplemental report within 24 hours of every time the candidate committee receives additional
23 contributions to be deposited into its Campaign Contribution Trust Account; ~~or makes additional~~
24 ~~expenditures or has additional funds in his or her campaign trust account~~ that in the aggregate
25 equal or exceed \$10,000.~~00~~.

(3) Any person other than a candidate committee who ~~that~~ makes expenditures for the purpose of distributing independent expenditures, electioneering communications, or member communications that clearly identify any candidate for the Board of Supervisors, and the amount of those expenditures in an amount that in the aggregate equals or exceeds \$5,000-~~00~~ per candidate, shall, within 24 hours of reaching or exceeding ~~the spending this~~ threshold, file a statement with the Ethics Commission, ~~provide an original~~ Such statement shall include a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video, to the Ethics Commission and file a statement with the Ethics Commission disclosing the cost of each communication, and provide any additional information required by the Ethics Commission. Every person who is required to file a statement with the Ethics Commission pursuant to this Subsection shall indicate on the statement which candidate or candidates for the Board of Supervisors the independent expenditures, electioneering communications, or member communications disclosed on the statement ~~are intended to support or oppose, or whether they are intended to be neutral, provided that an independent expenditure may not be neutral~~. For the purposes of this Subsection, the costs of a communication that supports or opposes more than one candidate or ballot measure shall be apportioned among each candidate and measure in the communication.

Thereafter, any such person shall file a supplemental statement with the Ethics Commission each time the person makes expenditures for the purpose of distributing independent expenditures, electioneering communications or member communications ~~in support of or in opposition to that clearly identify~~ any candidate for the Board of Supervisors in an amount that in the aggregate equals or exceeds an additional \$5,000-~~00~~ per candidate. The supplemental statements shall be filed within 24 hours of reaching or exceeding ~~the spending this~~ threshold, and shall include a legible copy of the communication if it is conveyed in writing or an

electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any additional information required by the Ethics Commission.

The Executive Director shall post the information disclosed on statements required by this subsection on the website page of the Ethics Commission within two business days of the statement's filing being filed.

(b) ELECTIONS FOR MAYOR.

(1) In addition to the campaign disclosure requirements imposed by the California Political Reform Act and other provisions of this Chapter, each candidate committee supporting a candidate for Mayor shall file a statement with the Ethics Commission indicating when the candidate committee has received contributions to be deposited into its Campaign Contribution Trust Account, or made expenditures or has funds in his or her Campaign Contribution Trust Account that in the aggregate equal or exceed \$50,000.00 within 24 hours of reaching or exceeding that amount.

(2) In addition to the supplemental report in Subsection (b)(1) of this Section, each candidate committee supporting a candidate for Mayor shall file a statement with the Ethics Commission disclosing when the candidate committee has received contributions to be deposited into its Campaign Contribution Trust Account, or made expenditures or has funds in his or her Campaign Contribution Trust Account that in the aggregate equal or exceed \$1,000,000.00. The candidate committee shall file this report within 24 hours of reaching or exceeding the threshold. Thereafter, the candidate committee shall file an additional supplemental report within 24 hours of every time the candidate committee receives additional contributions, or makes additional expenditures or has additional funds in his or her campaign trust account that in the aggregate equal or exceed \$50,000.00.

(3) Any person other than a candidate committee who ~~that~~ makes expenditures for the purpose of distributing independent expenditures, electioneering communications, or member

1 communications that clearly identify any candidate for Mayor, ~~in an~~ and the amount of those
2 expenditures that in the aggregate equals or exceeds ~~\$5,000.00~~ 10,000.00 per candidate, shall,
3 within 24 hours of reaching or exceeding ~~the spending~~ this threshold, file a statement with the
4 Ethics Commission, ~~provide~~ Such statement shall include an original legible copy of the
5 communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or
6 video, to the Ethics Commission and file a statement with the Ethics Commission disclosing the cost
7 of each communication, and provide any additional information required by the Ethics Commission.
8 Every person who is required to file a statement with the Ethics Commission pursuant to this
9 Subsection shall indicate on the statement which candidate or candidates for Mayor the
10 independent expenditures, electioneering communications, or member communications
11 disclosed on the statement ~~are intended to support or oppose, or whether they are intended to~~
12 ~~be neutral, provided that an independent expenditure may not be neutral~~. For the purposes of this
13 Subsection, the costs of a communication that supports or opposes more than one candidate
14 or ballot measure shall be apportioned among each candidate and measure in the
15 communication.

16 Thereafter, any such person shall file a supplemental statement with the Ethics
17 Commission each time the person makes expenditures for the purpose of distributing
18 independent expenditures, electioneering communications or member communications ~~in~~
19 ~~support of or in opposition to that clearly identify~~ any candidate for Mayor in an amount that in the
20 aggregate equals or exceeds an additional ~~\$5,000.00~~ 10,000.00 per candidate. The
21 supplemental statements shall be filed within 24 hours of reaching or exceeding ~~the spending~~
22 this threshold, and shall include a legible copy of the communication if it is conveyed in writing or an
23 electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and
24 provide any additional information required by the Ethics Commission.

1 The Executive Director shall post the information disclosed on statements required by
2 this subsection on the website page of the Ethics Commission within two business days of the
3 statement's filing-being filed.

4 (c) The supplemental statements required by Subsections (a)(2), (a)(3), (b)(2) and
5 (b)(3) are not required until the Ethics Commission has certified that at least one candidate ~~for~~
6 is eligible to receive public funds under this Chapter, provided that within two business days of
7 the date that the Ethics Commission provides notice under this subsection that it has certified
8 that a candidate is eligible to receive public funds under this Chapter, any report that
9 previously would have been required under (a)(2), (a)(3), (b)(2) or (b)(3) must be filed. Within
10 two business days of certifying that at least one candidate is eligible to receive public
11 financing under this Chapter, the Ethics Commission shall post a notice on its website-page,
12 send out a press release and send written notice by regular or electronic mail to all other
13 candidates running for the same City elective office and to any other person who has requested
14 such notice.

15 SEC. 1.156. REPORT TO THE MAYOR AND BOARD OF SUPERVISORS.

16 ~~(a)~~ Following each election at which the Mayor or members of the Board of Supervisors
17 are elected, the Ethics Commission shall submit a report to the Mayor and Board of
18 Supervisors. The report shall state the amount of public funds used to pay for election
19 campaigns in that election and such other information as the Ethics Commission deems
20 useful, including the number of candidates who received public funds; the number of
21 nonparticipating candidates; the amount of qualified campaign expenditures made by all
22 candidates in that election; and the amount of independent expenditures made in connection
23 with the election.

24 ~~(b) Following the November 2007 municipal election, the Ethics Commission shall conduct a~~
25 ~~study and submit a report to the Mayor and Board of Supervisors regarding the feasibility and costs of~~

1 ~~converting the partial public financing program for Mayoral candidates into a full public financing~~
2 ~~program. Following the November 2008 Municipal Election, the Ethics Commission shall conduct a~~
3 ~~study and submit a report to the Mayor and Board of Supervisors regarding the feasibility and costs of~~
4 ~~converting the partial public financing program for candidates for the Board of Supervisors into a full~~
5 ~~public financing program.~~

6 SEC. 1.161. DISCLOSURE AND FILING REQUIREMENTS FOR MASS MAILINGS.

7 (a) MASS MAILINGS BY CANDIDATES.

8 (1) Disclosure. In addition to the requirements set forth in California Government Code
9 Section 84305, each mass mailing paid for by a candidate committee for City elective office with
10 ~~funds raised for the candidate's campaign~~ shall include on the outside of each piece of mail in the
11 mass mailing the following statement in not less than 14 point type and in a color or print
12 which contrasts with the background so as to be easily legible: "paid for by _____ (insert
13 candidate's committee's name and street address)." A post office box may be stated in lieu of a
14 street address if the candidate committee's address is a matter of public record with the ~~San~~
15 ~~Francisco~~ Ethics Commission.

16 (2) Filing.

17 (i) Each candidate committee that for City elective office who pays for a mass mailing
18 shall, within five working days after the date of the mailing, file two ~~of the original~~ pieces of the
19 mailing with the ~~San Francisco~~ Ethics Commission.

20 (ii) Each candidate committee that for City elective office who pays for a mass mailing
21 shall, within five working business days after the date of the mailing, file an itemized disclosure
22 statement with the ~~San Francisco~~ Ethics Commission for that mailing.

23 (iii) Each candidate committee that for City elective office who pays for a mass mailing
24 shall file ~~the original two~~ pieces of mail and the itemized disclosure statement required by
25

Subsections (a)(2)(i) and (a)(2)(ii) within 48 hours of the date of the mailing if the date of the mailing occurs within the final 16 days before the election.

(iv) Every ~~original~~ mass mailing filed pursuant to this subsection shall be clearly legible.

(b) MASS MAILINGS BY PERSONS OTHER THAN CANDIDATES.

(1) Disclosure. Any person who makes independent expenditures for a mass mailing which supports or opposes any candidate for City elective office shall place the following statement on the mailing in typeface no smaller than 14 points:

Notice to Voters (Required by City and County of San Francisco) This mailing is not authorized or approved by any candidate for City and County office or by any election official. It is paid for by [name and committee identification number]. [address, city, state]. Total Cost of this mailing is [amount].

(2) Filing.

(i) Each person who makes independent expenditures of \$1,000-~~00~~ or more for a mass mailing which supports or opposes any candidate for City elective office shall, ~~within five working days after the date of the mailing,~~ file two ~~of the original~~ pieces of the mailing and an itemized disclosure statement for the mailing with the ~~San Francisco~~ Ethics Commission, unless that person is otherwise required to file disclosures regarding the communication under Section 1.134, 1.152, or 1.161.5 of this Code.

(ii) Any filing required by this Section shall be submitted within five business days after the date of the mailing if the date of the mailing is more than 16 days before the election, and within 48 hours after the mailing if the date of the mailing occurs within the final 16 days before the election.

~~(ii) Each person described in Subsection (b)(2)(i) shall, within five working days after the date of the mailing, file an itemized disclosure statement with the San Francisco Ethics Commission for that mailing.~~

1 (iii) Each person described in Subsection (b)(2)(i) shall file the original pieces of mail and the
2 itemized disclosure statement required by Subsections (b)(2)(i) and (b)(2)(ii) within 48 hours of the
3 date of the mailing if the date of the mailing occurs within the final 16 days before the election.

4 (iviii) Every original piece of mail filed pursuant to this ~~sub~~Section shall be clearly
5 legible.

6 (iv) The Ethics Commission may permit any required statement or mailing to be filed by
7 facsimile.

8 (c) DEFINITIONS.

9 (1) For the purposes of this Section, "Itemized disclosure statement" shall mean a detailed
10 description of the separate costs associated with a mass mailing, including but not limited to
11 photography, design, production, printing, distribution and postage. Each cost shall be disclosed on a
12 form promulgated by the San Francisco Ethics Commission in a manner that demonstrates each
13 separate charge or payment for each mass mailing.

14 (2) For the purposes of this Section, "Mass mailing" shall be defined as set forth in the
15 California Political Reform Act (Government Code Section 81000 et seq.), provided that the mass
16 mailing advocates for or against one or more candidates for City elective office.

17 SEC. 1.161.5. DISCLOSURE AND FILING FOR ELECTIONEERING
18 COMMUNICATIONS.

19 (a) DISCLOSURE STATEMENTS.

20 (1) Every electioneering communication shall include a disclosure statement identifying
21 the person who paid for the communication. Such disclosure statement shall, at a minimum,
22 contain the following words, "paid for by _____ (insert the name of the person who paid
23 for the communication)."

24 (2) Any disclosure statement required by this section to be in printed form shall be
25 printed in a type and color so as to be easily legible to the intended public. Such disclosure

statement shall be printed in at least 14 point type and in a color or print that contrasts with the background so as to be easily legible to the intended public.

(3) Any disclosure statement required by this Section to be in spoken form shall be spoken at the same volume and speed as the rest of the communication so as to be clearly audible and understood by the intended public and otherwise appropriately conveyed for the hearing impaired.

(b) REPORTING OBLIGATIONS.

(1) Every person who makes payments for electioneering communications in an aggregate amount of \$1,000-~~00~~ during any calendar year shall, within 48 hours of each disclosure date, file an itemized disclosure statement with the ~~San Francisco~~ Ethics Commission, unless that person is otherwise required to file disclosures regarding the communication under Section 1.134, 1.152, or 1.161 of this Code.

(2) Each itemized disclosure statement required to be filed under this Section ~~shall be filed on a form promulgated by the San Francisco Ethics Commission and~~ shall contain the following information:

(A) the full name, street address, city, state and zip code of the person making payments for electioneering communications;

(B) the name of any individual sharing or exercising direction and control over the person making payments for electioneering communications;

(C) the total amount of payments made by the person for electioneering communications during the calendar year;

(D) a detailed description of each payment made by the person for electioneering communications during the calendar year, provided that the person has not already reported such payments on an itemized disclosure statement filed under this Section; such detailed description shall include the date the payment was made, the full name and address of the

1 person to whom the payment was made; the amount of the payment, and a brief description
2 of the consideration for which each payment was made;

3 (E) a detailed accounting of any payments of \$100-~~00~~ or more that the person has
4 received from another person, which were used for making electioneering communications,
5 provided that the person has not already reported such payments received on an itemized
6 disclosure statement filed under this Section; such detailed accounting shall include the dollar
7 amount or value of each payment, the date of the payment's receipt, the name, street
8 address, city, state, and zip code of the person who made such payment, the occupation and
9 employer of the person who made such payment, if any, or, if the person is self-employed, the
10 name of the person's business, and the cumulative amount of payments received for the
11 purpose of making electioneering communications from that person during the calendar year;

12 (F) the total amount of all payments reported under Subsection (E) during the calendar
13 year;

14 (G) a legible copy of the electioneering communication if in printed form, or a transcript
15 of the electioneering communication if in spoken form; and

16 (H) any other information required by the Ethics Commission consistent with the
17 purposes of this Section.

18 (3) The filer shall verify, under penalty of perjury, the accuracy and completeness of the
19 information provided in the itemized disclosure statement, and shall retain for a period of five
20 years all books, papers and documents necessary to substantiate the itemized statements
21 required by this Section.

22 (4) The Ethics Commission may ~~require any itemized statement to be filed electronically and~~
23 ~~may~~ permit any required statement or mailing to be filed by facsimile. ~~The Ethics Commission~~
24 ~~shall promulgate regulations to implement this subsection before any person shall be required to file an~~
25 ~~itemized statement electronically or permitted to file a statement by facsimile.~~

1 ~~(5) If any person files an itemized statement after any deadline imposed by this Section, the~~
2 ~~Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter,~~
3 ~~fine the person \$10.00 per day after the deadline until the statement is received by the Ethics~~
4 ~~Commission. The Ethics Commission may reduce or waive a fine if the Commission determines that the~~
5 ~~late filing was not willful and that enforcement will not further the purposes of this Chapter. The Ethics~~
6 ~~Commission shall deposit funds collected under this Section in the General Fund of the City and~~
7 ~~County of San Francisco.~~

8 (c) DEFINITIONS. Whenever in this Section the following words or phrases are used,
9 they shall mean:

10 (1) "Disclosure Date" shall mean:

11 (A) the first date during any calendar year when an electioneering communication is
12 distributed after a person has made payments aggregating \$1,000.00 for electioneering
13 communications; and

14 (B) after a person has met the threshold under Subsection (A), any date during that
15 same calendar year when an electioneering communication is distributed, if that same person
16 made any payments for such electioneering communication.

17 (2) "Distributed" shall mean any act that permits an electioneering communication to be
18 viewed, read or heard.

19 (3) "Electioneering Communication" shall mean any communication, including but not
20 limited to any broadcast, cable, satellite, radio, internet, or telephone communication, and any
21 mailing, flyer, doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed
22 advertisement, that:

23 (A) refers to a clearly identified candidate for City elective office or a City elective officer
24 who is the subject of a recall election; and

1 (B) is distributed within 90 days prior to an election for the City elective office sought by
2 the candidate or a recall election regarding the City elective officer to 500 or more individuals
3 who are registered to vote or eligible to register to vote in the election or recall election. There
4 shall be a rebuttable presumption that any that any broadcast, cable, satellite, or radio
5 communication and any sign, billboard or printed advertisement is distributed to 500 or more
6 individuals who are eligible to vote ~~in or eligible to register to vote in an election for the City~~
7 ~~elective office sought by the candidate or a recall election regarding the City elective officer~~for or
8 against the candidate clearly identified in the communication.

9 (C) The term "Electioneering Communication" shall not include:

10 (i) communications that constitute ~~expenditures or~~ independent expenditures under this
11 Chapter;

12 (ii) communications made by a slate mailer organization if such communications are
13 required to be disclosed under the California Political Reform Act, California Government Code
14 Section 81000, et seq.;

15 (iii) communications paid for by the City or any other local, State or Federal
16 government agency;

17 (iv) ~~spoken~~non-recorded communications between two or more individuals in direct
18 conversation unless such communications are made by telephone and at least one of the
19 individuals is compensated for the purposes of making the telephone communication;

20 (v) communications that appear on bumper stickers, pins, stickers, hat bands, badges,
21 ribbons and other similar memorabilia;

22 (vi) news stories, commentaries or editorials distributed through any newspaper, radio
23 station, television station, or other recognized news medium unless such news medium is
24 owned or controlled by any political party, political committee or candidate;

(vii) communications to all members, employees and shareholders of an organization, other than a political party, provided that such communications do not constitute general public advertising such as, but not limited to, broadcasting, billboards, and newspaper advertisements;

(viii) communications that occur during a candidate debate or forum; and

(ix) communications made solely to promote a candidate debate or forum made by or on behalf of the person sponsoring the debate or forum, provided that such communications do not otherwise discuss the positions or experience of a candidate for City elective office or a City elective officer who is the subject of a recall election.

(4) "Internet Communication" shall include paid internet advertisements such as "banner" and "pop up" advertisements, paid emails or emails sent to addresses purchased from another person, and similar types of internet communications as defined by the Ethics Commission by regulation, but shall not include web blogs, listserves sent to persons who have contacted the sender, discussion forums, or general postings on web pages.

(5) "Payment" shall be defined as set forth in Government Code of the State of California (commencing at Section 81000); provided, however, that "payment" shall also include any enforceable promise to make a payment.

(6) "Refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election" shall mean any communication that contains the candidate's or officer's name, nickname or image or makes any other unambiguous reference to the candidate or officer such as "your Supervisor" or "the incumbent."

(D) REGULATIONS. The Ethics Commission shall issue regulations implementing this Section, including regulations defining all members, employees and shareholders of an organization.

SEC. 1.168. ENFORCEMENT; ADVICE.

1 (a) ENFORCEMENT– GENERAL PROVISIONS.

2 Any person who believes that a violation of this Chapter has occurred may file a
3 complaint with the Ethics Commission, City Attorney or District Attorney. The Ethics
4 Commission shall investigate such complaints pursuant to Charter Section C3.699-13 and its
5 implementing regulations. The City Attorney and District Attorney shall investigate, and shall
6 have such investigative powers as are necessary for the performance of their duties under
7 this Chapter.

8 (b) ENFORCEMENT– CIVIL ACTIONS.

9 The City Attorney, or any voter, may bring a civil action to enjoin violations of or compel
10 compliance with the provisions of this Chapter.

11 No voter may commence an action under this Subsection without first providing written
12 notice to the City Attorney of intent to commence an action. The notice shall include a
13 statement of the grounds for believing a cause of action exists. The voter shall deliver the
14 notice to the City Attorney at least ~~sixty~~ 60 days in advance of filing an action. No voter may
15 commence an action under this Subsection if the Ethics Commission has issued a finding of
16 probable cause that the defendant violated the provisions of this Chapter, or if the City
17 Attorney or District Attorney has commenced a civil or criminal action against the defendant,
18 or if another voter has filed a civil action against the defendant under this Subsection.

19 A Court may award reasonable attorney's fees and costs to any voter who obtains
20 injunctive relief under this Subsection. If the Court finds that an action brought by a voter
21 under this Subsection is frivolous, the Court may award the defendant reasonable attorney's
22 fees and costs.

23 (c) STATUTE OF LIMITATIONS.

24 (1) Criminal. Prosecution for violation of this Chapter must be commenced within four
25 years after the date on which the violation occurred.

1 (2) Civil. No civil action alleging a violation in connection with a campaign statement
2 required under this Chapter shall be filed more than four years after an audit could begin, or
3 more than one year after the Executive Director submits to the Commission any report of any
4 audit conducted of the alleged violator, whichever period is less. Any other civil action alleging
5 a violation of any provision of this Chapter shall be filed no more than four years after the date
6 on which the violation occurred.

7 (3) Administrative. No administrative action alleging a violation of this Chapter and
8 brought under Charter Section C3.699-13 shall be commenced more than ~~five~~four years after
9 the date on which the violation occurred. The date on which the Commission forwards a
10 complaint or information in its possession regarding an alleged violation to the District
11 Attorney and City Attorney as required by Charter Section C3.699-13 shall constitute the
12 commencement of the administrative action.

13 (4) Collection of fines and penalties. A civil action brought to collect fines or penalties
14 imposed under this Chapter shall be commenced within four years after the date on which the
15 monetary penalty or fine was imposed. For purposes of this Section, a fine or penalty is
16 imposed when a court or administrative agency has issued a final decision in an enforcement
17 action imposing a fine or penalty for a violation of this Chapter or the Executive Director has
18 made a final decision regarding the amount of a late fine or penalty imposed under this
19 Chapter. The Executive Director does not make a final decision regarding the amount of a late
20 fine or penalty imposed under this Chapter until the Executive Director has made a
21 determination to accept or not accept any request to waive a late fine or penalty where such
22 waiver is expressly authorized by statute, ordinance, or regulation.

23 (d) ADVICE. Any person may request advice from the Ethics Commission or City
24 Attorney with respect to any provision of this Chapter. The Ethics Commission shall provide
25 advice pursuant to Charter Section C3.699-12. The City Attorney shall within 14 days of the

1 receipt of said written request provide the advice in writing or advise the person who made the
2 request that no opinion will be issued. The City Attorney shall send a copy of said request to
3 the District Attorney upon its receipt. The City Attorney shall within nine days from the date of
4 the receipt of said written request send a copy of his or her proposed opinion to the District
5 Attorney. The District Attorney shall within four days inform the City Attorney whether he or
6 she agrees with said advice, or state the basis for his or her disagreement with the proposed
7 advice.

8 No person other than the City Attorney who acts in good faith on the advice of the City
9 Attorney shall be subject to criminal or civil penalties for so acting; provided that, the material
10 facts are stated in the request for advice and the acts complained of were committed in
11 reliance on the advice.

12 SEC. 1.170. PENALTIES.

13 (a) CRIMINAL. Any person who knowingly or willfully violates any provision of this
14 Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a
15 fine of not more than \$5,000-~~40~~ for each violation or by imprisonment in the County jail for a
16 period of not more than six months or by both such fine and imprisonment; provided, however,
17 that any willful or knowing failure to report contributions or expenditures done with intent to
18 mislead or deceive or any willful or knowing violation of the provisions of Section 1.114 of this
19 Chapter shall be punishable by a fine of not less than \$5,000 for each violation or three times
20 the amount not reported or the amount received in excess of the amount allowable pursuant
21 to Section 1.114 of this Chapter, or three times the amount expended in excess of the amount
22 allowable pursuant to Section 1.130 or 1.140.5, whichever is greater.

23 (b) CIVIL. Any person who intentionally or negligently violates any of the provisions of
24 this Chapter shall be liable in a civil action brought by the civil prosecutor for an amount up to
25 \$5,000-~~40~~ for each violation or three times the amount not reported or the amount received in

1 excess of the amount allowable pursuant to Section 1.114 or three times the amount
2 expended in excess of the amount allowable pursuant to Section 1.130 or 1.140.5, whichever
3 is greater.

4 (c) ADMINISTRATIVE. Any person who intentionally or negligently violates any of the
5 provisions of this Chapter shall be liable in an administrative proceeding before the Ethics
6 Commission held pursuant to the Charter ~~for an amount up to \$5,000.00 for each violation, or~~
7 ~~three times the amount not reported or the amount received in excess of the amount allowable pursuant~~
8 ~~to Section 1.114 or three times the amount expended in excess of the amount allowable pursuant to~~
9 ~~Section 1.130 or 1.140.5, whichever is greater~~for any penalties authorized therein.

10 (d) LATE FILING FEES

11 (1) Fees for Late Paper Filings. In addition to any other penalty, any person who files a
12 paper copy of any statement or report after the deadline imposed by this Chapter shall be
13 liable in the amount of ten dollars (\$10.00) per day after the deadline until the statement is
14 filed.

15 (2) In addition to any other penalty, any person who files an electronic copy of a
16 statement or report after the deadline imposed by this Chapter shall be liable in the amount of
17 twenty-five dollars (\$25.00) per day after the deadline until the electronic copy or report is
18 filed.

19 (3) Limitation on Liability. Liability imposed by Subsection (d)(1) shall not exceed the
20 cumulative amount stated in the late statement or report, or one hundred dollars (\$100.00),
21 whichever is greater. Liability imposed by Subsection (d)(2) shall not exceed the cumulative
22 amount stated in the late statement or report, or two hundred fifty dollars (\$250.00), whichever
23 is greater.

1 (4) Reduction or Waiver. The Ethics Commission may reduce or waive a fee imposed
2 by this subsection if the Commission determines that the late filing was not willful and that
3 enforcement will not further the purposes of this Chapter.

4 (e) MISUSE OF PUBLIC FUNDS. Any person who willfully or knowingly uses public
5 funds, paid pursuant to this Chapter, for any purpose other than the purposes authorized by
6 this Chapter shall be subject to the penalties provided in this Section.

7 (f) PROVISION OF FALSE OR MISLEADING INFORMATION TO THE ETHICS
8 COMMISSION; WITHHOLDING OF INFORMATION. Any person who knowingly or willfully
9 furnishes false or fraudulent evidence, documents, or information to the Ethics Commission
10 under this Chapter, or misrepresents any material fact, or conceals any evidence, documents,
11 or information, or fails to furnish to the Ethics Commission any records, documents, or other
12 information required to be provided under this Chapter shall be subject to the penalties
13 provided in this Section.

14 (g) PERSONAL LIABILITY. Candidates and treasurers are responsible for complying
15 with this Chapter and may be held personally liable for violations by their committees. Nothing
16 in this Chapter shall operate to limit the candidate's liability for, nor the candidate's ability to pay, any
17 finer or other payments imposed pursuant to administrative or judicial proceedings.

18 (h) JOINT AND SEVERAL LIABILITY. If two or more persons are responsible for any
19 violation of this Chapter, they shall be jointly and severally liable.

20 (i) EFFECT OF VIOLATION ON OUTCOME OF ELECTION.

21 (1) If a candidate is convicted of a violation of this Chapter at any time prior to his or
22 her election, his or her candidacy shall be terminated immediately and he or she shall be no
23 longer eligible for election, unless the court at the time of sentencing specifically determines
24 that this provision shall not be applicable. No person convicted of a misdemeanor under this
25 Chapter after his or her election shall be a candidate for any other City elective office for a

1 period of five years following the date of the conviction unless the court shall at the time of
2 sentencing specifically determine that this provision shall not be applicable.

3 (2) If a candidate for Mayor or the Board of Supervisors is found by a court to have
4 exceeded the Individual Expenditure Ceiling in this Chapter by ten percent or more at any
5 time prior to his or her election, he or she is ineligible for election, unless the court specifically
6 determines that this provision shall not be applicable. If feasible, the candidate's name shall
7 be removed from the ballot. No candidate for Mayor or the Board of Supervisors who is found
8 by a court to have exceeded the Individual Expenditure Ceiling in this Chapter by ten percent
9 or more after his or her election shall be a candidate for any City elective office for a period of
10 ~~five~~ years following the court's determination unless the court specifically determines that
11 this provision shall not be applicable. The Ethics Commission may make a recommendation to
12 the Board of Supervisors that a candidate found by a court to have exceeded the Individual
13 Expenditure Ceiling in this Chapter by ten percent or more should be removed from office.

14 (3) A plea of nolo contendere shall be deemed a conviction for purposes of this
15 Section.

16 Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby
17 amended by deleting Sections 1.134.5, 1.158, and 1.160, to read as follows:

18 ~~SEC. 1.134.5. LIFTING OF INDIVIDUAL EXPENDITURE CEILINGS.~~

19 ~~This Section shall apply only if the Ethics Commission has certified that at least one candidate~~
20 ~~for Mayor or the Board of Supervisors is eligible to receive public funds under this Chapter.~~

21 ~~(a) The Executive Director shall lift the Individual Expenditure Ceiling of a candidate for~~
22 ~~Mayor to an amount equal to the sum of the highest level of the Total Supportive Funds of any other~~
23 ~~candidate for Mayor and the Total Opposition Spending against that candidate if such amount is~~
24 ~~greater than \$1,375,000, provided that the Executive Director may lift a candidate's Individual~~
25 ~~Expenditure Ceilings only in increments of \$100,000.~~

1 (b) The Executive Director shall lift the Individual Expenditure Ceiling of a candidate for the
2 Board of Supervisors to an amount equal to the sum of the highest level of the Total Supportive Funds
3 of any other candidate for the same office on the Board of Supervisors and the Total Opposition
4 Spending against that candidate if such amount is greater than \$140,000, provided the Executive
5 Director may lift a candidate's Individual Expenditure Ceiling only in increments of \$10,000.

6 (c) On the fourth business day after a statement is filed pursuant to Section 1.152 (a)(3) and
7 (b)(3) of this Chapter, the Executive Director shall determine whether to lift the Individual Expenditure
8 Ceilings of each candidate for Mayor or the Board of Supervisors pursuant to Subsections (a) and (b)
9 of this Section based on the information in the statement unless pursuant to Subsection (d) a candidate
10 for Mayor or the Board of Supervisors requests that the Executive Director make a determination
11 regarding which candidate or candidates the communication filed with the statement supports or
12 opposes or whether the communication is neutral.

13 (d) Any candidate for Mayor or the Board of Supervisors may request that the Executive
14 Director review the original or copy of a communication filed pursuant to Section 1.152(b)(3) of this
15 Chapter to make an independent determination regarding which candidate or candidates for Mayor or
16 the Board of Supervisors the communication actually supports or opposes or whether the
17 communication is neutral. Such requests must be filed with the Executive Director within three business
18 days from the date the original or copy of the communication is filed. Factors the Executive Director
19 shall use to determine whether the communication supports or opposes one or more candidates include
20 the following:

- 21 (1) The communication clearly identifies one or more candidates;
22 (2) The timing of the communication coincides with the campaign;
23 (3) The communication targets voters in a particular election;

1 (4) The communication identifies one or more candidate's position on a public policy issue and
2 urges the reader or viewer to take action, including calling the candidate to support or oppose the
3 candidate's position;

4 (5) The position of one or more candidates on the public policy issue has been raised as
5 distinguishing these candidates from others in the campaign, either in the communication itself or in
6 other public communications;

7 (6) The communication is not part of an ongoing series of substantially similar advocacy
8 communications by the organization on the same issue; and

9 (7) Any other factors the Executive Director deems relevant.

10 Within three business days of the date the request for a determination is received, the Executive
11 Director shall make his or her initial determination.

12 Within one business day of the date that the Executive Director makes an initial determination,
13 any candidate for Mayor or the Board of Supervisors may submit to the Executive Director a request
14 that the Ethics Commission review the Executive Director's initial determination.

15 Within one business day of receiving the request, the Executive Director shall notify each
16 Commissioner of the candidate's request.

17 If within one business day of the Executive Director's notice, two or more members of the
18 Commission inform the Executive Director that they would like to review the initial determination, the
19 Executive Director shall schedule a meeting of the Commission on a date that occurs within one week
20 of the Commissioners' requests. If three members of the Commission vote to override the Executive
21 Director's initial determination, the Commission shall make a final determination based on the factors
22 set forth above.

23 If no candidate requests review of the Executive Director's initial determination, if a request is
24 made and two or more members of the Commission do not request to review the initial determination,
25 or within one week of two members of the Commission requesting to review the initial determination, at

1 *least three members of the Commission do not vote to override the Executive Director's initial*
2 *determination, the Executive Director's determination shall become final.*

3 *The Executive Director shall determine whether to lift the Individual Expenditure Ceilings of*
4 *each candidate for Mayor or the Board of Supervisors pursuant to Subsections (a) and (b) of this*
5 *Section within one business day of a final determination.*

6 SEC. 1.158. IMPLEMENTING REGULATIONS; FORMS.

7 *Pursuant to Charter Section 15.102, the Ethics Commission shall adopt regulations to*
8 *implement this Chapter. The Ethics Commission shall also specify the form and content of all forms and*
9 *statements required to be filed under this Chapter.*

10 SEC. 1.160. NO LIMITATION OF CANDIDATE LIABILITY.

11 *Nothing in this Chapter shall operate to limit the candidate's liability for, nor the candidate's*
12 *ability to pay, any fines or other payments imposed pursuant to administrative or judicial proceedings.*

13 Section 3. The San Francisco Campaign and Governmental Conduct Code is hereby
14 amended by adding Sections 1.109, 1.143, 1.171, and 1.175, to read as follows:

15 SEC. 1.109. RETENTION OF RECORDS.

16 (a) All candidates and committees that are required to file statements prescribed by this
17 Chapter shall maintain detailed accounts, records, bills, and receipts as necessary to prepare those
18 statements. Each candidate or committee shall retain for a period of four years detailed information
19 and original source documentation supporting those statements. The Ethics Commission may by
20 regulation describe the information and documentation required to be retained for each type of
21 statement.

22 (b) Within ten business days of a request by the Ethics Commission, a committee shall provide
23 the Ethics Commission with any documents required to be retained under this Section or state law,
24 including but not limited to California Code of Regulations, Title 2, section 18401 and any subsequent
25 amendments, modifications or administrative or judicial interpretations of that regulation. When the

Ethics Commission requests documents under this subsection, it shall provide the committee with the reasons for the request in writing.

SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.

This Section shall apply only if the Ethics Commission has certified that at least one candidate for Mayor or the Board of Supervisors is eligible to receive public funds under this Chapter.

(a) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate for Mayor to an amount equal to the sum of the Total Opposition Spending against that candidate and the highest level of the Total Supportive Funds of any other candidate for Mayor if such amount is greater than \$1,475,000, provided that the Executive Director may adjust a candidate's Individual Expenditure Ceilings only in increments of \$100,000.

(b) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate for the Board of Supervisors to an amount equal to the sum of the Total Opposition Spending against that candidate and the highest level of the Total Supportive Funds of any other candidate for the same office on the Board of Supervisors if such amount is greater than \$143,000, provided the Executive Director may adjust a candidate's Individual Expenditure Ceiling only in increments of \$10,000.

(c) No later than the second business day after a statement is filed pursuant to Section 1.152 (a)(3) or (b)(3) of this Chapter, the Executive Director shall determine whether the communication supports or opposes one or more candidates.

Factors the Executive Director shall use to determine whether the communication supports or opposes one or more candidates include the following:

(1) whether the communication clearly identifies one or more candidates;

(2) the timing of the communication;

(3) the voters targeted by the communication;

1 (4) whether the communication identifies any candidate's position on a public policy issue and
2 urges the reader or viewer to take action, including calling the candidate to support or oppose the
3 candidate's position;

4 (5) whether the position of one or more candidates on a public policy issue has been raised as
5 distinguishing these candidates from others in the campaign, either in the communication itself or in
6 other public communications;

7 (6) whether the communication is part of an ongoing series of substantially similar advocacy
8 communications by the organization on the same issue; and

9 (7) any other factors the Executive Director deems relevant.

10 (d) Within one business day of the date that the Executive Director makes a determination under
11 Subsection (c), either the candidate(s) identified in the communication or any candidate seeking the
12 same City elective office as the candidate identified in the communication may object to the Executive
13 Director's determination. The Executive Director shall respond to any objection within one business
14 day of receiving the objection.

15 (e) Within one business day of the Executive Director's response, either the candidate(s)
16 identified in the communication or any candidate seeking the same City elective office as the candidate
17 identified in the communication may submit to the Executive Director a request that the Ethics
18 Commission review the Executive Director's determination. Within one business day of receiving the
19 request, the Executive Director shall notify each Commissioner of the candidate's request.

20 If within one business day of the Executive Director's notice, two or more members of the
21 Commission inform the Executive Director that they would like to review the determination, the
22 Executive Director shall schedule a meeting of the Commission on a date that occurs within one week
23 of the Commissioners' requests. If three members of the Commission vote to overrule the Executive
24 Director's determination, the Commission shall make a final determination based on the factors set
25 forth above.

1 (f) If no candidate objects to the Executive Director's determination, if no candidate requests
2 review by the Commission of the Executive Director's determination, if a request is made and two or
3 more members of the Commission do not request to review the determination, or within one week of
4 two members of the Commission requesting to review the Executive Director's determination, at least
5 three members of the Commission do not vote to overrule the Executive Director's determination, the
6 Executive Director's determination shall become final.

7 The Executive Director shall determine whether to adjust the Individual Expenditure Ceilings of
8 each candidate for Mayor or the Board of Supervisors pursuant to either Subsection (a) or (b) of this
9 Section within one business day of a final determination.

10 SEC. 1.171. ISSUANCE OF SUBPOENAS.

11 The Ethics Commission, including its Executive Director, may issue subpoenas in furtherance of
12 its duties under the Charter including, but not limited to, audits of committees and enforcement of the
13 provisions of this Chapter.

14 SEC. 1.175. IMPLEMENTING REGULATIONS; FORMS.

15 Pursuant to Charter Section 15.102, the Ethics Commission shall adopt regulations to
16 implement this Chapter. The Ethics Commission shall also specify the format and content of all forms
17 and statements required to be filed under this Chapter.

18 Section 4. Operative Date.

19 The foregoing amendments to the Campaign & Governmental Conduct Code shall
20 become operative on January 1, 2010.

22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By: _____
25 ANDREW SHEN
Deputy City Attorney

SUPERVISOR DALY
BOARD OF SUPERVISORS





ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

EXECUTIVE DIRECTOR'S REPORT TO THE SAN FRANCISCO ETHICS COMMISSION For the Meeting of September 14, 2009

DIENNE S. STUDLEY
CHAIRPERSON

SAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

1. FY 09-10 Budget.

The final budget for the Ethics Commission in the current fiscal year is \$5,453,874. This includes a \$2,241,818 operating budget, \$1,283,858 for the Election Campaign Fund (a partial restoration of the funds deappropriated last May) and another \$1,928,198 for the Election Campaign Fund (the annual deposit required by law of \$2.75 per resident).

2. Investigation and enforcement program.

Since its last regular meeting on August 10, 2009, the Commission has received two new complaints. There are currently 15 complaints pending in the Commission's jurisdiction.

Category	# of Complaints
Campaign Finance	5
Conflict of Interest	5
Governmental Ethics	1
Lobbyist Ordinance	2
Campaign Consultant Ordinance	0
Sunshine Ordinance	2
TOTAL	15

3. Campaign finance disclosure program.

a. Filing deadline. The most recent filing deadline was July 31, 2009 for the First Semi-Annual statements, which covers the reporting period beginning the day after the closing date of the last statement filed, or January 1, 2009 through June 30, 2009. On August 11, staff sent eleven "Non-Specific Written Notices" to filers who did not file. Then, on August 25, staff sent five "Second Non-Specific Written Notices" to filers who were still delinquent in filing campaign statements. These filers were then posted to the Commission's Non-Responsive Filers (NR) List. As of September 8, two filers have not submitted their required campaign statements and remain on the NR List.

Staff has conducted an initial analysis of campaign finance filings received for this deadline. The analysis showed that as of September 8, the Commission received 326 campaign finance filings (130 electronic filings and 196 paper filings). Staff entered, scanned and posted these campaign statements to the Commission's online database. The next filing deadline is September 24, 2009 for the First Pre-Election statement.

Several candidates have already expressed an interest in running for office in November 2010. Staff has been conducting outreach for such potential candidates. Outreach to potential candidates includes contacting and setting up a one-on-one appointment with staff to discuss campaign finance processes and requirements. The purpose of this outreach is to inform first-time candidates and treasurers of their filing obligations prior to them engaging in campaign finance activity.

b. Collection of late filing fees and contribution forfeitures. Campaign finance collections as of September 9th for FY 09-10 totaled \$3,519, based on filings made during previous fiscal years. By comparison, campaign finance collections as of September 9th in prior fiscal years were as follows:

Fiscal year	Collections by Sept. 9	Total collections in FY
02-03	\$3,205	\$49,322
03-04	\$6,125	\$51,607
04-05	\$10,984	\$199,524
05-06	\$11,154	\$85,390
06-07	\$18,948	\$119,814
07-08	\$34,375	\$65,035
08-09	\$5,076	\$48,673

The \$3,519 amount is based on prior assessments as follows:

FY when assessed	Amount collected in 09-10
06-07	\$480.00
07-08	\$761.75
08-09	\$2,042.52
Total:	\$3,519.27

FY 08-09 waivers, as well as waivers from past years provided for comparison, are as follows:

FY when assessed	Amount assessed	Amount waived during FY
04-05	\$907,069	\$683,086
05-06	\$546,859	\$342,901
06-07	\$181,831	\$50,347
07-08	\$217,444	\$159,880
08-09	\$322,529	\$107,176
09-10	\$7,899	\$0

To date, the outstanding balance of late fees assessed from the current and previous years, including \$75,251 in fees that have been referred to the Bureau of Delinquent Revenues, is \$219,739, up from \$214,097 as last reported.

The current outstanding balance of contribution forfeitures assessed as a result of the defective reporting of contributor information and contribution limit violations is \$70,918, up from \$71,218 as last reported. The \$70,918 amount consists of forfeitures from the 2005-2006 filing periods and does not include forfeiture assessments from the 2008 filing period. Staff continues to process requests for waiver of late fees and forfeitures.

c. Status of accounts to San Francisco Bureau of Delinquent Revenues (BDR). The following chart provides details on pending accounts referred to BDR:

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
1	Committee to Elect Rebecca Silverberg	1220430	Lucia Paulazzo	5/6/05	\$21,086.00	\$21,086.00	\$21,086.00
2	Yick Tsun Society, Inc.	PEN1078	Florence Fang	8/16/05	\$7,550.00	\$7,550.00	\$7,550.00
3	SEIU Local 87	PEN951	Mike Garcia & Michael Baratz	8/25/05	\$14,350.00	\$14,350.00	\$14,350.00
5	Johnnie Carter for Community College Board	1226264	Johnnie Carter	6/16/06	\$9,520.00	\$7,095.00	\$6,595.00
7	Micheas Herman	PEN788	Micheas Herman	6/26/06	\$100.00	\$100.00	\$100.00
8	San Franciscans for Fair & Honest Government	1258209	Erik Howell	10/20/06	\$4,659.22	\$4,659.22	\$4,659.22
9	Myrna Viray Lim for District 11 Supervisor	1256697	Jia Jun Chen	4/27/07	\$3,855.00	\$3,855.00	\$3,855.00
10	Committee to Elect M. Valle for Treasurer	1278937	Manuel B. Valle	6/14/07	\$5,525.00	\$5,525.00	\$5,525.00
11	Shawn Westcott	PEN1102	Shawn Westcott	6/18/07	\$100.00	\$100.00	\$100.00
12	Committee to Elect Vilma Guinto-Peoro Supervisor District #2	1291394	Vilma Guinto-Peoro	6/18/07	\$10.00	\$10.00	\$10.00
13	Bill Barnes for District 5	1265969	Alix Rosenthal	1/3/08	\$3,120	\$3,120	\$3,110
14	Care Not Cash	1244505	Ronald Jin	2/29/08	\$5,331	\$5,331	\$5,331

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
15	Omar Khalif for Board of Educ.	1287030	Omar Khalif	7/30/09	\$1,800	\$0 (NEW)	\$1,800
16	Myrna Lim for District 11 Sup	1306882	Myrna Lim	7/30/09	\$1,180	\$0 (NEW)	\$1,180

d. Electronic filing. On April 30, 2009 staff provided 60 days' notice that committees subject to the electronic filing requirements under section 1.112(b) will be required to file FPPC Forms 461 (Independent Expenditure Committee and Major Donor Committee Campaign Statement) and 465 (Supplemental Independent Expenditure Report) in electronic format starting July 1, 2009. Electronically filed forms and data will be made available to the public on the Ethics Commission's web site. This new electronic filing requirement is in addition to the paper filing requirement. Forms 461 and 465 were added to the San Francisco Electronic Disclosure System (SFEDS) through the Commission's contract with Netfile.

4. Revenues report.

For FY 09-10, the Commission is budgeted to generate \$50,000 in revenues. As of September 8, 2009, the Commission received \$10,420 as summarized below. The figure represents collection of approximately 20 percent of expected revenues for FY 09-10.

Revenues Received as of September 8, 2009

Source	Budgeted Amount FY 09-10	Receipts
Lobbyist Fees	\$8,000	\$1,388
Other Ethics General	\$1,000	\$18
Campaign Finance Fines	\$22,000	\$2,136
Campaign Consultant Fees	\$15,000	\$1,950
Lobbyist Fines	\$1,000	
Statements of Economic Interests Fines	\$1,000	\$1,180
Other Ethics Fines	\$1,000	\$750
Campaign Consultant Fines	\$1,000	
Total	\$50,000	\$10,420

5. Public financing/Campaign finance audit program.

Staff is working on audits of candidates who received public financing in 2008. Staff has identified treasurers of candidate and non-candidate committees who need training for the 2009 election season and is in the process of providing the trainings.

6. Lobbyist program.

As of September 1, 2009, there are 39 lobbyists registered with the Commission. In the 2009-2010 fiscal year, \$1,237.50 in lobbyist fees and \$150 in fines were collected, for a total of \$1,387.50. The next filing deadline is October 15, 2009, for the third quarter of 2009.

Staff worked with the Mayor's Office, the Public Utilities Commission, and the San Francisco Airport, which are the only City departments that hire lobbyists to lobby on behalf of the City. As a result of that cooperation, all lobbyists on behalf of the City have filed the required reports from 1st quarter 2005 through the most recent reporting period. The next filing deadline for lobbyists on behalf of the City is November 15, 2009, for the third quarter 2009 reporting period.

7. Campaign Consultant program.

As of September 8, 2009, twenty-four campaign consultants are active and registered with the Commission. \$2,550 in registration fees have been collected in the 2009-2010 fiscal year. The next quarterly report is due Tuesday, September 15, 2009. Staff mailed reminder notices to all active campaign consultants two weeks prior to the deadline.

8. Statements of Economic Interests.

April 1 was the deadline for designated officers and employees to file their annual Statement of Economic Interests ("SEIs"). Staff continues to process incoming SEIs and Sunshine Ordinance Declarations, by logging them into a database and scanning them for upload to the Commission's website. A list of filers is viewable on the Commission's website.

The following table reflects annual statements filed as of September 8, 2009.

FORM	FILERS	TOTAL # OF FILERS
Statement of Economic Interests (SEI)	600	621

On May 6, 2009, staff issued 136 non-filer notices. On June 8, 2009, staff issued 48 second non-filer notices to those who were unresponsive to the first notice. On July 8, 2009 staff issued third non-filer notices to 33 non-filers who were unresponsive to the past two notices. As of September 8, 2009, 90 non-filers informed the Commission that they left office, 26 non-filers filed their annual SEIs, five stated that they hold a position that is not required to file with the Commission, one stated that the Annual SEI requirement does not apply to because the filer recently assumed office, and 14 non-filers remain nonresponsive.

Enforcement staff continues to audit departments for SEI filing compliance for both 2007 and 2008 calendar years. Staff is also reviewing all SEIs filed with the Commission.

9. Outreach and Education.

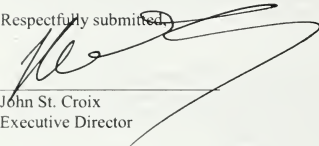
On August 24, 2009, staff met with a delegation of representatives from Shaanxi Province, People's Republic of China. The delegation sought to learn about promoting the highest standards of ethical behavior in government; new laws, rules and programs that will lead to ethics compliance; and ethics education and training.

On September 8, 2009, staff conducted a Candidates' Training which covered filing requirements for potential candidates for the City elective offices of City Attorney and Treasurer. This training focused on campaign finance requirements that apply to candidates for all City elective offices, focused on required forms for candidates.

Ethics staff continues to provide trainings on conflict of interest laws and the Statements of Incompatible Activities (SIA) to City departments. The following trainings are currently scheduled for 2009:

- Training for Treasurers of Non-Candidate Recipient Committees: September 22
- Lobbyist Ordinance Training: September 28
- Building Inspection Commission, Access Appeals Commission, Board of Examiners and Unreinforced Masonry Building Appeals Board SIA Training(web training): September 30

Respectfully submitted,



John St. Croix
Executive Director

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Minutes of the Regular Meeting of
The San Francisco Ethics Commission
September 14, 2009
Room 408, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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I. Call to order and roll call.

Commissioner Harriman called the meeting to order at 5:33 PM.

COMMISSION MEMBERS PRESENT: Jamienne Studley (arrived at 5:40 PM), Chairperson; Susan Harriman, Vice-Chairperson; Eileen Hansen, Commissioner; Emi Gusukuma, Commissioner. Commissioner Ward was excused.

STAFF PRESENT: John St. Croix, Executive Director; Mabel Ng, Deputy Director; Catherine Argumedo, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Andrew Shen, Deputy City Attorney.

MATERIALS DISTRIBUTED:

- Memorandum from the Executive Director to Ethics Commission re: Additional proposed changes to CFRO legislation, dated September 9, 2009;
- Memorandum from Executive Director to Ethics Commission re: Proposed amendments to Campaign Finance Reform Ordinance, dated August 28, 2009;
- Draft amendments to Campaign Finance Reform Ordinance;
- Draft Minutes of the August 10, 2009 Regular Meeting
- Executive Director's Report to the Ethics Commission for the Meeting of September 14, 2009

II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

No members of the public were present.

III. Consideration of possible amendments to the Campaign Finance Reform Ordinance (CFRO), San Francisco Campaign and Governmental Conduct Code section 1.100 et seq.

Commissioner Harriman stated that the Commission would wait to review Item III until Chairperson Studley arrived and to allow for arrival of members of the public.

IV. Minutes of the Commission's regular meeting of August 10, 2009.

Motion 09-09-14-1 (Hansen/Harriman) Moved, seconded and passed (3-0; Studley & Ward absent) that the Commission adopt the minutes, without discussion.

Public Comment:

None.

V. Executive Director's Report.

Executive Director St. Croix stated that the Commission staff has lost a percentage of an employee and the City is enforcing the loss. Mr. St. Croix stated that he expected to keep all current full-time employees, but the Commission will lose the receptionist. Mr. St. Croix then stated that an auditor left in August and another one has given notice. He stated the auditor's classification position was in a hiring freeze and that he hoped to be able to fill the positions, regardless of the freeze.

[Chairperson Studley arrived at 5:40 PM.]

Mr. St. Croix stated that any new hires for the auditor position would be provisional hires and that the employees would have to pass an examination in order to become permanent. He stated that filling these positions is critical as there is already a lot of activity related to the supervisory races for 2010.

Mr. St. Croix stated the need for a closed session to discuss activity with BDR. He stated that the lobbyist changes are going to the Rules Committee soon and that he expects that the changes should be on target for January 2010.

Commissioner Hansen asked about certain figures quoted in charts in items 3, 4, and 6, including waivers, campaign finance disclosure, campaign finance fees, and fines. She stated that the numbers do not seem to match and asked the Executive Director to update all of the charts.

Commissioner Hansen also asked about the differences in the budget for campaign finance listed in the July report and the August report. Commissioner Hansen asked why the budget was \$22,000 when it was half of what has been collected previously. Mr. St. Croix stated that the budget was now cut by a half and that staff is trying to reduce the expected revenue.

Commissioner Hansen then asked about what was being done regarding the lobbyists working for the City. Mr. St. Croix stated that the program is now up to date and that staff will stay on top of it. He stated there were several staff changes and the requirement did not get passed onto new staff. He stated that the requirement to take in filings was in the Sunshine Ordinance, not the Lobbyist Ordinance.

Chairperson Studley asked whether an annual report would be ready at a future meeting. Mr. St. Croix stated that it would be ready for the October meeting.

Chairperson Studley then stated that she pulled up the priorities set up by the Commission at a past meeting and that she will circulate them to all Commissioners. She stated that the Executive Director will contact all Commissioners to see what needs to be addressed at a future meeting. She also thanked Commissioner Hansen for a helpful conversation about the past priorities.

Mr. St. Croix referred to a memorandum for the Commissioners regarding amendments to the enforcement regulations. He stated that the changes were proposed a few months ago and that he has not heard any feedback from any of the Commissioners, other than Commissioner Harriman. He asked for feedback so that the amendments could be reviewed at the October meeting. He also stated an interest in following up with Sunshine issues.

Mr. St. Croix then stated that the October meeting would be on October 19, because of the holiday. He stated that the meeting will not begin until 6:30 PM, since there were no rooms available at the Commission's regular meeting time.

III. Consideration of possible amendments to the Campaign Finance Reform Ordinance (CFRO), San Francisco Campaign and Governmental Conduct Code section 1.100 et seq.

Chairperson Studley stated that the Commissioners would be working from the August 28, 2009 memo from staff. She stated that the definition of "person" was open for discussion, as of the last meeting. Commissioner Harriman stated that her views on this definition have not changed and that she was aware that her view differed from that of Commissioner Hansen. She stated that she was not going to approve this new definition and that the Commission needed four votes to approve, so there was no need to repeat her position on the definition.

Commissioner Hansen stated that she had not changed her position either, so there were not four votes in the opposing stance either. Commissioner Harriman stated that she had no issues with the proposed changes in Decision Point #3.

Chairperson Studley stated that if there were not enough votes, then the current definition of "person" remains in place. Commissioner Harriman thanked staff for its memo, but she stated her view that the definition as proposed was unconstitutional and that she would not support that definition.

Decision Point #3

Commissioner Harriman stated that the Commission should leave the definition of "person" as it is and deal with a change at another time. She stated that she had no issues with any other changes for section 1.104.

Motion 09-09-14-2 (Hansen/Harriman): Moved, seconded and passed (4-0; Ward absent) that the Commission adopt the approved proposed amendments to section 1.104, except for the definition of "person."

Public Comment:

None.

Decision Point #4

Motion 09-09-14-3 (Hansen/Gusukuma): Moved, seconded and passed (4-0; Ward absent) that the Commission adopt the approved proposed amendments to section 1.118(a).

Public Comment:

None.

Decision Point #5

Commissioner Hansen stated that the loan amount should remain at \$5,000 and that she approved all of the other proposed changes. Commissioner Harriman stated that the amount should be increased, but that she would approve the motion so that the rest of section 1.140 could pass.

Motion 09-09-14-4 (Hansen/Gusukuma): Moved, seconded and passed (4-0; Ward absent) that the Commission adopt the approved proposed amendments to section 1.140, except for the loan increase.

Public Comment:

None.

Chairperson Studley asked how the Commission would be able to review CFRO again. Mr. St. Croix stated that the Commission needs to get the manual out for next year and anything that is not adopted will be added to the next round of changes. Mr. St. Croix stated that the Commission reviews CFRO every year.

Decision Point #6

Motion 09-09-14-5 (Hansen/Harriman): Moved, seconded and passed (4-0; Ward absent) that the Commission adopt the approved proposed amendments to section 1.152, without discussion.

Public Comment:

None.

Decision Point #7

Chairperson Studley noted some grammatical errors.

Motion 09-09-14-6 (Hansen/Harriman): Moved, seconded and passed (4-0; Ward absent) that the Commission adopt the approved amendments, as set forth in the draft proposals.

Public Comment:

None.

Decision Point #8

City Attorney Shen noted some typographical errors referencing "per candidate disbursement limit" in section 1.144. Chairperson Studley thanked Mr. Shen for the review.

Motion 09-09-14-7 (Harriman/Gusukuma) Moved, seconded and passed (4-0; Ward absent) that the Commission adopt the proposed amendments to section 1.144(c), after amending typographical errors.

Public Comment:

None.

Chairperson Studley and Commissioner Harriman thanked Deputy Director Ng for her work on the amendments.

VI. Items for future meetings.

Chairperson Studley stated that many items for future meetings were mentioned during the discussion of the Executive Director's report.

VII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

None.

VIII. Adjournment.

Motion 09-09-14-8 (Harriman/Gusukuma) Moved, seconded and passed (4-0) that the Commission adjourn.

Public Comment:

None.

Meeting adjourned at 6:11 PM.

Respectfully submitted,

Catherine Argumedo



Ethics Commission



25 Van Ness Ave., Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

**SAN FRANCISCO ETHICS COMMISSION
NOTICE OF SPECIAL MEETING**

October 19, 2009 6:30 P.M.

and AGENDA

Room 408 City Hall

1 Dr. Carlton B. Goodlett Place, San Francisco

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NOTE: This is not the same day or time as the Commission's regular meetings.

- I. Call to order and roll call.**
- II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**
- III. Consideration of legislation to amend Chapter 2 of Article III of the Campaign and Governmental Conduct Code to ban members of City boards and commissions from obtaining employment with the City during their tenure and for one year after the termination of their City service. Supervisor Mar or a member of his staff will attend the meeting to discuss the legislation and answer questions. A copy of the draft amendments and a legislative digest are available from the Commission office and website. (Discussion and possible action.)**
- IV. Closed session. (Discussion and possible action.)**

Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9 (a) and (c) and Sunshine Ordinance section 67.10(d) to discuss anticipated litigation as plaintiff and existing litigation as defendant.

- (a) Conference with Legal Counsel: Anticipated litigation as plaintiff**

Number of possible cases: 1

- (b) Conference with Legal Counsel: Existing litigation as defendant**

Number of cases: 2

**Myrna Lim v. City and County of San Francisco Ethics Commission et al.,
Case No. 08-472073 (S.F. Superior Court)**

**Allen Grossman v. San Francisco Ethics Commission et al., Case No. 09-
509868 (S.F. Superior Court)**

- V. Discussion and vote regarding closed session action and deliberations. (Discussion and possible action.)

Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose any action taken or discussions held in closed session regarding anticipated and existing litigation.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: anticipated litigation and existing litigation.

- VI. Consideration of possible amendments to the Commission's Regulations for Investigations and Enforcement Proceedings ("Regulations"). At its May 2009 meeting, the Commission began consideration of several staff-recommended substantive and technical amendments to the Regulations. These amendments will address issues that could include but are not limited to identifying the laws that the Commission enforces, allowing amendments to probable cause determinations, requiring the Executive Director to notify the Commission and respondents of exculpatory information, addressing the confidentiality of complaints alleging violations of the Sunshine Ordinance, and clarifying the process and procedures related to a hearing on the merits. The draft amendments and a staff report will be available at the Commission office as well as on the Commission website. (Discussion and possible action.)

- VII. Annual Report. Consideration of the Annual Report for Fiscal Year 2008-2009. The Commission will discuss the contents of a draft annual report, suggest and vote on possible amendments, and possibly adopt the report for submission to the Mayor and Board of Supervisors. A copy of the draft report is available at the Commission office and on the Commission website. (Discussion and possible action.)

- VIII. Policy Priorities. The Commission will discuss progress in the areas of 1) Education and Technology, 2) Campaign Finance Laws, 3) Communications with the Public, 4) Enforcement, 5) Conflicts of Interest, 6) Lobbyist and Campaign Consultant Ordinances, policy priorities last approved by the Commission on August 8, 2009. The Commission will also discuss priorities for future work in these areas and possibly auditing, public finance, and budgeting. This discussion is in lieu of an annual retreat. (Discussion and possible action.)

- IX. Minutes of the Commission's regular meeting of September 14, 2009. (Discussion and possible action.)

- X. Executive Director's Report. An update of important Ethics Commission staff activities since the previous monthly meeting. (Discussion.)

- XI. Items for future meetings. Commissioners may propose items for future agendas and the Commission may determine the priority of these items. (Discussion.)

XII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

XIII. Adjournment.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

If any materials related to an item on this agenda have been distributed to the Ethics Commission after distribution of the agenda packet, those materials are available for public inspection at the Ethics Commission, 25 Van Ness Avenue, Suite 220, San Francisco, during normal office hours.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing devices.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct, Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102; telephone (415) 252-3100; fax (415) 252-3112 and web site www.sfgov.org/ethics

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LEGISLATIVE DIGEST

[Prohibiting members of City boards and commissions from obtaining City employment.]

Ordinance amending Chapter 2 of Article III of the Campaign and Governmental Conduct Code to prohibit members of City boards and commissions from obtaining employment with the City during their tenure and for one year after the termination of their City service, and to extend the one-year prohibition on former Mayors and former members of the Board of Supervisors obtaining City employment to include part-time employment.

Existing Law

Under existing law, appointed members of City boards and commissions may accept City employment during their terms in office and at any time after they leave office. The Mayor and members of the Board of Supervisors cannot accept compensated *full-time* employment with the City for one year after leaving office.

Although appointed members of City boards and commissions can accept employment with the City after leaving office, existing law otherwise restricts their post-employment activities in three ways. First, for one year after leaving office, a former board member or commissioner cannot attempt to influence his or her former commission or department on behalf of another person or entity. Second, for one year after leaving office, a former board member or commissioner cannot accept employment with a City contractor if he or she personally and substantially participated in the award of the contract within the 12 months prior to leaving office. Third, a former board member or commissioner cannot switch sides on a particular matter in which he or she was personally and substantially involved while in City service. A variety of other ethics rules apply to members of City boards and commissions during their terms in office, including the ban on compensated advocacy before City departments and the ban on contracting with City departments.

Amendments to Current Law

The legislation would prohibit members of appointed City boards and commissions who are required to file Statements of Economic Interests from accepting City employment while holding office and for one year after leaving office. The legislation would not prohibit a member of a board or commission from being elected to elective office, appointed to fill a vacancy in an elective office, or appointed to another board or commission. The legislation also would not prohibit employment of current or former City employees under the Civil Service Rules.

The legislation also would amend the post-employment restriction that currently applies to the Mayor and members of the Board of Supervisors. Under the legislation, the Mayor and members of the Board of Supervisors could not accept *any* compensated employment – as opposed to just full-time employment – with the City for one year after leaving office.

Legislative History

As initially introduced, the ordinance would have prohibited board members and commissioners from full-time City employment. This amended version of the ordinance applies to all compensated City employment, whether full time or part time.

As initially introduced, the ordinance would not have affected the Mayor or members of the Board of Supervisors. This amended version changes existing law so that the Mayor and members of the Board of Supervisors are prohibited for one year from accepting compensated City employment, whether full time or part time.

Background Information

The proposal amends Article III, Chapter Two of the Campaign and Governmental Conduct Code, which was originally approved by the voters. Section 3.204 of the Campaign and Governmental Conduct code expressly authorizes amendment of Article III, Chapter Two only if:

- 1) the amendment furthers the purposes of the Chapter;
- 2) the amendment is submitted to the Ethics Commission and recommended by its members by a four-fifths vote;
- 3) the legislation is made available for public review for 30 days; and
- 4) the Board of Supervisors adopts the legislation by a two-thirds vote.

[Prohibiting members of City boards and commissions from obtaining City employment.]

Ordinance amending Chapter 2 of Article III of the Campaign and Governmental Conduct Code to prohibit members of City boards and commissions from obtaining employment with the City during their tenure and for one year after the termination of their City service, and to extend the one-year prohibition on former Mayors and former members of the Board of Supervisors obtaining City employment to include part-time employment.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~striketrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby amended by adding Section 3.235, to read as follows:

SEC. 3.235. CITY EMPLOYMENT FOR CURRENT AND FORMER MEMBERS OF BOARDS AND COMMISSIONS.

(a) For the purposes of this Section, the term "board or commission" means an appointed board or commission created by Charter or ordinance of the City and County whose members are required by Article III, Chapter 1 of this Code to file statements of economic interests.

(b) During his or her service and for a period of one year after the last day of his or her service, no member of a board or commission shall be eligible for appointment to any compensated employment with the City and County. This restriction shall not prohibit a member of a board or commission from being elected to an office of the City and County, appointed to fill a vacancy in an elective office of the City and County, or appointed to another board or commission.

1 (c) Nothing in this Section is intended to interfere with or abridge any rights held by any
2 employee or former employee of the City and County of San Francisco pursuant to Civil Service Rules.
3 This Section shall not apply to any member of a board or commission who by law must be a City
4 employee.

5 Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby
6 amended by amending Section 3.234, to read as follows:

7 SEC. 3.234. POST-EMPLOYMENT AND POST-SERVICE RESTRICTIONS.

8 (a) All Officers and Employees.

9 (1) Permanent Restriction On Representation In Particular Matters.

10 (A) Prohibition. No former officer or employee of the City and County, after the
11 termination of his or her service or employment with the City, shall, with the intent to influence,
12 act as agent or attorney, or otherwise represent, any other person (except the City and
13 County) before any court, or before any state, federal, or local agency, or any officer or
14 employee thereof, by making any formal or informal appearance or by making any oral,
15 written, or other communication in connection with a particular matter:

16 (i) in which the City and County is a party or has a direct and substantial interest;

17 (ii) in which the former officer or employee participated personally and substantially as
18 a City officer or employee; and

19 (iii) which involved a specific party or parties at the time of such participation.

20 (B) Restriction on assisting others. No former officer or employee of the City and
21 County, after the termination of his or her service or employment with the City, shall aid,
22 advise, counsel, consult or assist another person (except the City and County) in any
23 proceeding in which the officer or employee would be precluded under Subsection (A) from
24 personally appearing.

1 (C) Exception for testimony. The prohibitions in Subsections A and B do not prohibit a
2 former officer or employee of the City and County from testifying as a witness, based on the
3 former officer's or employee's personal knowledge, provided that no compensation is received
4 other than the fees regularly provided for by law or regulation of witnesses.

5 (2) One-Year Restriction on Communicating with Former Department.

6 No current or former officer or employee of the City and County, for one year after
7 termination of his or her service or employment with any department, board, commission,
8 office or other unit of the City, shall, with the intent to influence a government decision,
9 communicate orally, in writing, or in any other manner on behalf of any other person (except
10 the City and County) with any officer or employee of the department, board, commission,
11 office or other unit of government, for which the officer or employee served.

12 (3) Employment With Parties That Contract With The City.

13 No current or former officer or employee of the City shall be employed by or otherwise
14 receive compensation from a person or entity that entered into a contract with the City within
15 the preceding 12 months where the officer or employee personally and substantially
16 participated in the award of the contract.

17 (b) Mayor, Members of the Board of Supervisors, and their Senior Staff Members.

18 (1) One year restriction on communicating with City departments. For purposes of the
19 one-year restriction under subsection (a)(2), the "department" for which a former Mayor, a
20 former member of the Board of Supervisors, or a former senior staff member to either the
21 Mayor or a member of the Board of Supervisors served shall be the City and County and the
22 prohibition in subsection (a)(2) shall extend to communications with:

23 (A) a board, department, commission or agency of the City and County;

24 (B) an officer or employee of the City and County;

1 (C) an appointee of a board, department, commission, agency, officer, or employee of
2 the City and County; or

3 (D) a representative of the City and County.

4 For the purposes of this subsection, "a former senior staff member to either the Mayor
5 or a member of the Board of Supervisors" means an individual employed in any of the
6 following positions at the time the individual terminated his or her employment with the City:
7 the Mayor's Chief of Staff, the Mayor's Deputy Chief of Staff, a Legislative Aide to a member
8 of the Board of Supervisors or a position that the Ethics Commission determines by regulation
9 is an equivalent position based on an analysis of the functions and duties of the position.

10 (2) City service. No former Mayor or member of the Board of Supervisors shall be
11 eligible for a period of one year after the last day of service as Mayor or member of the Board
12 of Supervisors, for appointment to any ~~full time~~, compensated employment with the City and
13 County. This restriction shall not apply to a former Mayor or Supervisor elected to an office of
14 the City and County, appointed to fill a vacancy in an elective office of the City and County, or
15 appointed to a board or commission in the executive branch.

16 (c) Waiver.

17 (1) At the request of a current or former City employee or officer, the Ethics
18 Commission may waive any of the restrictions in Subsections (a)(1) and (a)(2) if the
19 Commission determines that granting a waiver would not create the potential for undue
20 influence or unfair advantage.

21 (2) At the request of a current or former City employee or officer, the Ethics
22 Commission may waive any of the restrictions in Subsections (a)(1) and (a)(2) for members of
23 City boards and commissions who, by law, must be appointed to represent any profession,
24 trade, business, union or association.

1 (3) At the request of a current or former City officer or employee, the Ethics
2 Commission may waive the prohibition in Subsection (a)(3) if the Commission determines that
3 imposing the restriction would cause extreme hardship for the City officer or employee.

4 (4) The Ethics Commission may adopt regulations implementing these waiver
5 provisions.
6

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By:

11 JON GIVNER
12 Deputy City Attorney
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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

DIENNE S. STUDLEY
CHAIRPERSON

Date: October 13, 2009

SAN J. HARRIMAN
COMMISSIONER

To: Members, Ethics Commission

EMI GUSUKUMA
COMMISSIONER

From: John St. Croix, Executive Director
By: Richard Mo, Chief Enforcement Officer

A handwritten signature in black ink, likely belonging to Richard Mo, is written over the "By:" line of the "From:" field.

EILEEN HANSEN
COMMISSIONER

Re: Proposed Changes to Investigations and Enforcement Regulations

HARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

I. Background

At its May 11, 2009 meeting, the Commission began consideration of possible changes to its Investigations and Enforcement Regulations ("Regulations"). Staff presented several proposed changes based on its experience with probable cause hearings, the Commission's first-ever hearing on the merits, and the drafting and review of numerous briefs, orders and exhibits. The proposed changes sought to streamline further the investigation and enforcement process, including the hearing procedures, and provide clarity and uniformity in the Regulations.

Staff worked with Vice-Chairperson Harriman to draft some of the recommendations; while other Commissioners expressed interest in providing comment on the proposals and other possible changes, none have been forthcoming. This memo discusses all of the proposed substantive changes, which have been recast below as decision points. While it does not discuss proposed technical changes, staff will be pleased to answer any questions from the Commissioners during the October 19 meeting.

Staff has forwarded several additional proposals related to the handling of Sunshine Ordinance complaints to the Sunshine Ordinance Task Force for its consideration. A copy of the memorandum setting forth staff's additional recommendations regarding Sunshine matters is attached.

Regulations adopted by the Commission become effective 60 days after the date of adoption unless before the expiration of the 60-day period, two-thirds of all the members of the Board of Supervisors vote to veto the regulation(s). S.F. Charter § 15.102.

NOTE: Decision points refer to the information preceding them.

II. Proposed Changes

1) Clarifying the Definition of "Delivery" – Sections II.F,M; XIII.J.

Existing Regulations:

- The terms "delivery" and "service" are used interchangeably
- No provision for service of documents by e-mail
- Delivery to respondents must be by certified mail

Proposed Changes:

- Eliminate the term "service" and use "delivery" throughout the Regulations
- Allow for e-mail as a method of delivery
- Eliminate requirement of using certified mail

Rationale for Proposed Changes:

- Consistent terminology clarifies Regulations
- Easier for staff to deliver documents to respondents
- Prevents recipients from dodging service by refusing to pick up certified mail
- Reduces financial costs incurred by use of certified mail

Decision Point 1: Shall the Commission approve the proposed amendments to the definition of "deliver" and removal of "service" in Sections II.F and M; the removal of "service" from Section XIII.J; the deletion of "certified mail" and the addition of "any other means of delivery agreed upon by the parties" from Section XII.J.2.?

2) Clarifying the Preliminary Review Process and Setting Forth Possible Reasons that the Executive Director May Dismiss a Complaint – Section IV.A-B.

Existing Regulations:

- Any signed complaint submitted on the Commission's complaint form must be processed/reviewed
- Executive Director may dismiss complaint if there is no reason to believe a violation of law has occurred
- Do not specify reasons for which the Executive Director can dismiss a complaint
- Do not specify what constitutes "preliminary review" of a complaint

Proposed Changes:

- Enumerate specific reasons for the Executive Director's dismissal of a complaint
- Specify actions staff may take during preliminary review of complaint, including reviewing relevant documents, speaking with complainant and/or respondent

Rationale for Proposed Changes:

- Provides basic parameters for case dismissal after initial review
 - Evidence does not support allegations
 - Complaint alleges violation of a law not within Commission's jurisdiction
 - Complaint contains expression of opinions and not specific allegations
 - Allegations already under investigation or already resolved
- Provides framework for Executive Director's preliminary review of complaints
- Allows enforcement staff to focus on meritorious/viable complaints; minimizes administrative burden for staff and the Commission in dismissing non-meritorious complaints
 - Safeguards: Complaint dismissals at this stage vetted by investigators, chief enforcement officer, deputy director and executive director

Decision Point 2: Shall the Commission approve the proposed amendments to Section IV.A-B.?

3) Deadline for Respondent to File Response to Probable Cause Report – Section VII.B-C.

Existing Regulations:

- Staff must deliver probable cause report to respondent at least 30 days before probable cause hearing
- Respondent may submit response within at least 15 days before hearing

Proposed Changes:

- Amend deadline of probable cause report delivery to at least 45 days prior to hearing
- Amend deadline of response delivery to at least 20 days prior to hearing, increasing respondent's time to respond from at least 15 days to at least 25 days

Rationale for Proposed Changes:

- Provides respondent additional notice of hearing and provides respondent more time to prepare his/her response

Decision Point 3: Shall the Commission approve the proposed amendments to the deadlines for probable cause reports and responses as set forth in Sections VII.B-C.?

4) Probable Cause Hearings for Sunshine Ordinance Violations – Section VIII.A.2.

Existing Regulations:

- All probable cause hearings are held in closed session, unless respondent requests open hearing
- No special regulations for complaints alleging Sunshine Ordinance violations

Proposed Changes:

- Probable cause hearings regarding alleged willful violations of the Sunshine Ordinance will be held in public, unless otherwise prohibited by state or local law
- Staff memoranda to the Commission will be public, but internal staff notes regarding Sunshine complaints will not be disclosable until after complaint resolution

Rationale for Proposed Changes:

- Most Sunshine-related complaints received by the Commission are referrals from Sunshine Ordinance Task Force. All information contained in these referrals already are public documents and the Task Force already has held public discussions of the matters; holding probable cause hearings in open session maintains transparency
- Maintaining confidentiality of staff notes until after case resolution protects staff's deliberative process and strategy

Decision Point 4: Shall the Commission approve the proposed amendments regarding probable cause hearings for Sunshine Ordinance violations as set forth in Section VIII.A.2.?

5) Eliminating Live Witness Testimony at the Probable Cause Hearing ("PCH") – Section VIII.A.3.

Existing Regulations:

- Silent as to whether parties may present live witness testimony during PCH

Proposed Changes:

- Neither party allowed to present live witness testimony during PCH

Rationale for Proposed Changes:

- Prior to PCH, the Commission has already received and reviewed briefs from both parties
- Any probative value of live testimony is outweighed by consumption of time
- Expedites hearing process
- Respondent's right to appear and have counsel at PCH remains intact

Decision Point 5: Shall the Commission approve the proposed amendments prohibiting live witness testimony during the probable cause hearings as set forth in Section VIII.A.3.?

6) Maintaining Consistency in the Standards of Proof at Probable Cause Hearing ("PCH") and Hearing on the Merits ("HOTM") – Sections VIII.A.4.; XII.A.2.

Existing Regulations:

- Standards of proof for PCH and HOTM contain different language
 - PCH: "The Commission may find there is probable cause to believe a violation...has occurred only if the evidence is sufficient to lead a person of ordinary caution and prudence **to believe that a violation has been committed and that the respondent committed or caused the violation.**" (emphasis added.)
 - HOTM: "The Commission may determine that a violation...has occurred only if a person of ordinary caution and prudence would conclude, based on a preponderance of the evidence, **that the violation has occurred.**" (emphasis added.)
- The similarities between the two standards raise questions about whether the two are substantively different ("probable cause to believe" a violation has occurred vs. "a preponderance of the evidence" that a violation has occurred).

Proposed Changes:

- Conform key language for PCH and HOTM standards of proof, so that both provisions use the same key language ("the respondent has committed the violation"):
 - PCH: "The Commission may find that there is probable cause to believe a violation of law has occurred only if a person of ordinary caution and prudence would conclude, based on the evidence, that there is a reasonable ground to suspect **that the respondent has committed the violation.**" (emphasis added.)
 - HOTM: "The Commission may determine that a respondent has committed a violation of law only if a person of ordinary caution and prudence would conclude, based on a preponderance of the evidence, **that the respondent has committed the violation.**" (emphasis added.)
- Clarify that the Commission's determination at each stage is distinct, and that the HOTM standard requires a greater showing by staff.
 - PCH: The Commission must determine that there is a "reasonable ground to suspect" a violation
 - HOTM: The Commission must determine, "based on a preponderance of the evidence, that the respondent has committed the violation."

Rationale for Proposed Changes:

- Provides a measurable, objective basis for making a determination at the respective stages of the enforcement process
- Eliminates confusion regarding the required standards of proof

Decision Point 6: Shall the Commission approve the proposed amendments to standards of proof for probable cause hearings and hearings on the merits as set forth in Sections VIII.A.4. and XII.A.2.?

7) Clarifying Probable Cause Hearing Procedures – Section VIII.B.1.

Existing Regulations:

- Commission sits as a hearing panel for the PCH
 - Commission can assign one member to conduct PCH and submit report and recommendation to full Commission
- Allow the Commission to appoint an outside hearing officer to conduct PCH and prepare report

Proposed Changes:

- Delete reference to outside hearing officer, so that for a PCH, there are only two options
 - Commission sits as a hearing panel, OR
 - Commission assigns one of its members to conduct the hearing

Rationale for Proposed Changes:

- No witness testimony at PCH, so no need to have outside hearing officer

Decision Point 7: Shall the Commission approve the proposed amendments to the probable cause hearing procedures as set forth in Section VIII.B.1.?

8) Allowing Amendments to Probable Cause Determinations – Section VIII.D.

Existing Regulations:

- Silent as to whether staff may add new charges after finding of probable cause

Proposed Changes:

- After probable cause determination but before scheduling HOTM, staff may request that Commission add or amend charges
 - Request must be made no later than 60 days prior to HOTM

Rationale for Proposed Changes:

- Staff often discovers additional allegations during course of investigation. Allowing amendment or addition to probable cause determination saves time. Currently, the only option is to initiate a new complaint based on same nucleus of underlying facts, which is inefficient for everyone.
- Respondent still has opportunity to respond to staff's additional or amended allegation
- Commission must find probable cause for additional violation

Decision Point 8: Shall the Commission approve the proposed amendments allowing to the probable cause determination process as set forth in Section VIII.D.?

9) Designating the Accusation as the Official Charging Document – Section IX.A.

Existing Regulations:

- Silent on designation of a charging document for hearing on the merits
- Accusation must be issued at least 45 days before hearing on the merits

Proposed Changes:

- Designate accusation as charging document for the hearing on the merits
- Accusation must be issued within ten days of probable cause determination

Rationale for Proposed Changes:

- Eliminates potential ambiguity/confusion about where staff must state the charges respondent is facing
- Provides timely notice for respondent

Decision Point 9: Shall the Commission approve the proposed amendments designating the accusation as the official charging document and requiring that an accusation must be issued within ten days of probable cause determination as set forth in Section IX.A.?

10) Resolution of Procedural Matters for Hearing on the Merits – Section X.B.

Existing Regulations:

- Provide for resolution of preliminary and procedural matters for HOTM
 - Does not specify what constitutes a “procedural” or “preliminary” matter
- Motions on these matters must be submitted at least 25 days prior to HOTM

Proposed Changes:

- Amend deadline for written opposition from 15 days prior to hearing to ten days after delivery of request
- Permit written reply due no later than five days after delivery of opposition
- Allow parties to request resolution of procedural matter affecting the conduct of HOTM at any time either before or during HOTM, but no later than conclusion of HOTM
- If either party requests written decision, the assigned Commissioner/hearing officer must issue written decision no later than 20 days after date of request

Rationale for Proposed Changes:

- Broadens and clarifies process for preliminary and procedural motions
- Addresses the reality that staff and respondent may wish to make procedural motions during the hearing itself
- Allows Commission or hearing officer to consider motions in limine and other matters that are not necessarily procedural in nature

Decision Point 10: Shall the Commission approve the proposed amendments regarding resolution of preliminary and procedural matters as set forth in Section X.B.?

11) Exculpatory Information – Section XI.A-C.

Existing Regulations:

- If the Executive Director discovers exculpatory evidence after a probable cause determination and prior to HOTM, he/she may recommend dismissal of complaint
 - Requires minimum of two Commissioners to calendar dismissal recommendation
 - Does not specify what occurs if dismissal recommendation is not calendared
- No provision for dismissal of a specific charge as opposed to whole complaint

Proposed Changes:

- Specify that if two or more Commissioners do not calendar the dismissal recommendation, the Commission shall take no further action except to:
 - notify complainant and respondent of dismissal,
 - issue warning letter to respondent (at the Commission's discretion), or
 - refer complaint to another agency (at the Commission's discretion)
- Allow the Executive Director to dismiss a specific charge (after probable cause determination and issuance of accusation but before HOTM.)

Rationale for Proposed Changes:

- Clarifies existing regulations
- Focuses the HOTM by allowing the Executive Director to dismiss charges that the staff does not intend to pursue

Decision Point 11: Shall the Commission approve the proposed amendments regarding exculpatory information as set forth in Section XI.A.-C.?

12) Allowing Either Party to Request that the Commission Exclude a Witness During the Hearings on the Merits – Section XII.A.1.

Existing Regulations:

- Commission has discretion to exclude witnesses during HOTM

Proposed Changes:

- Either party may request exclusion of witness from hearing

Rationale for Proposed Changes:

- Conforms with current court practice and recent Commission practice

Decision Point 12: Shall the Commission approve the proposed amendment allowing either party to request exclusion of witnesses from hearings as set forth in Section XII.A.1.?

13) Access to Complaints and Related Documents and Deliberations – Section XIII.B.1-3.

Existing Regulations:

- After the Commission's probable cause determination, complaint documents are not disclosable except as required by California Public Records Act

Proposed Changes:

- Specify that unless respondent requests the PCH be held in public, the probable cause report, response and rebuttal are confidential
- Confirm that all documents created prior to probable cause determination also remain confidential unless the Executive Director determines disclosure of complaint to respondent is necessary to conduct of investigation

- Confirm that all investigative documents created after probable cause determination also remain confidential, unless staff delivers the document to the Commission or respondent, introduces it as evidence or an exhibit or distributes it for public consumption (e.g., press release)
- As discussed in Decision Point 4, for complaints alleging willful Sunshine Ordinance violations:
 - No disclosure of documents except as necessary to conduct of investigation or as required by California Public Records Act or Sunshine Ordinance
 - Internal staff notes not disclosable until after resolution of complaint

Rationale for Proposed Changes:

- Provides clarity on the application of the Charter's confidentiality rules for Ethics Commission investigations
- Distinguishes Sunshine complaints

Decision Point 13: Shall the Commission approve the proposed amendments as set forth in Section XIII.B.1.-3.?

14) Changing the Statute of Limitations From Five Years to Four Years – Section XIII.F.

Existing Regulations:

- If no existing statute of limitations for law allegedly violated, staff must deliver the probable cause report within five years from date of events which form basis of complaint, or date that underlying events were discovered by the Commission, whichever is later

Proposed Changes:

- Amend statute of limitations from five to four years

Rationale for Proposed Changes:

- Consistency with statute of limitations for conflict of interest, lobbyist and campaign consultant laws

Decision Point 14: Shall the Commission approve the proposed amendment to change the statute of limitations from five years to four years as set forth in Section XIII.F.?

San Francisco
Ethics Commission



25 Van Ness Ave., Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

**ETHICS COMMISSION
REGULATIONS FOR INVESTIGATIONS
AND ENFORCEMENT PROCEEDINGS**

Effective Date: July 5, 1997

Includes technical amendments effective April 13, 2002;

*Streamlined Process for Complaints Alleging a Failure to File Campaign Finance Disclosure
Reports effective August 15, 2004; amendments effective October 10, 2005;*

*amendments effective March 10, 2006; and amendments effective November 10, 2006; amendments
effective December 18, 2009*

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I. PREAMBLE

These Regulations of the San Francisco Ethics Commission are promulgated in order to ensure the fair, just, and timely resolution of complaints presented to the Commission that allege violations of ~~State and City laws within the Commission's jurisdiction relating to campaign finance, lobbying, campaign consulting, campaign consulting, conflicts of interest and governmental ethics by:~~

- A. Setting and maintaining objective standards for the investigation and prosecution of matters brought before the Commission;
- B. Eliminating any political or improper influence in the investigation and prosecution of persons accused of ethics violations;
- C. Protecting the privacy rights of those accused of ethics violations by maintaining the confidentiality of complaints filed with, and investigations conducted by, the Commission;
- D. Setting and enforcing reasonable time limits within which enforcement proceedings should be completed;
- E. Coordinating and sharing with other governmental agencies the responsibility for investigations and prosecutions of complaints, whenever consistent with the interests of justice;
- F. Delegating to the Commission staff maximum discretion in the handling and resolution of complaints at staff level, while retaining oversight of those staff activities.

II. DEFINITIONS

For purposes of these Regulations, the following definitions shall apply:

- A. "Business day" means any day other than a Saturday, Sunday or City holiday.
- B. "City" means the City and County of San Francisco
- B. "City laws relating to campaign finance, lobbying, campaign consulting, conflicts of interest, and governmental ethics" include, but are not limited to: San Francisco Charter section 15.100 et seq. and Appendix C (ethics), and the San Francisco Campaign and Governmental Conduct Code C. "Commission" means the Ethics Commission.
- D. "Complainant" means a person or entity that makes a complaint.
- E. "Day" means calendar day unless otherwise specifically indicated. If a deadline falls on a weekend or City holiday, the deadline shall be extended to the next working business day.
- F. "Deliver" means transmit by U.S. mail or personal delivery to a person or entity or to an agent authorized to accept service on behalf of the person or entity. For purposes of these Regulations, delivery may be made by leaving copies of the material with a responsible person at either the residence or place of business of the person or entity to whom the material is directed. The Commission, the Executive Director or a respondent receiving material may consent to any other means of delivery, including delivery by email or fax. In any proceeding, following a determination of probable cause, the

Commission Chair or designated Commissioner or hearing officer may order that delivery of briefs or other materials be accomplished by email, serve, as defined in this Section, or transmit by registered mail, return receipt requested.

G. "Enforcement action" means an action pursuant to San Francisco Charter section C3.699-13.

H. "Exculpatory information" means information tending to show that the respondent is not guilty of the alleged violations.

I. "Executive Director" means the Executive Director of the Ethics-Commission or the Executive Director's designee.

J. "Mitigating information" means information tending to excuse or reduce the significance of the respondent's conduct.

K. "Probable cause" means that based on the evidence presented there is reason to believe that the respondent committed a violation of City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics.

L. "Respondent" means a person or entity that is alleged in a complaint to have violated State or City committed a violation of laws relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics.

M. "Service" means actual receipt by the person or entity to whom the material is directed, or by an agent authorized to accept service on behalf of the person or entity to whom the material is directed. For purposes of these Regulations, service may be made by leaving copies of the material with a responsible person at either the residence or place of business of the person or entity to whom the material is directed.

N. "State laws relating to campaign finance, conflicts of interest, and governmental ethics" include, but are not limited to the Political Reform Act of 1974, Government Code section 81000 et seq., Government Code section 1090, and Government Code section 3201 et seq.

OM. "Stipulated order" means an order regarding a complaint the terms of which have been agreed to by both the Executive Director and the respondent.

PN. "Violation of law" means a violation of City laws relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics, and State laws relating to campaign finance, conflicts of interest, or governmental ethics, including, but not limited to: San Francisco Charter section 15.100 et seq. and Appendix C (ethics); the San Francisco Campaign and Governmental Conduct Code; the San Francisco Sunshine Ordinance, S.F. Administrative Code Ch. 67; the Political Reform Act of 1974, Government Code section 81000 et seq.; Government Code section 1090, et seq.; and Government Code section 3201, et seq. "Working day" is any day other than a Saturday, Sunday or City holiday.

III. COMPLAINTS

A. Formal Complaints

1. Any person or entity may file a formal complaint alleging a violations of State or City laws relating to campaign finance, lobbying, campaign consulting, conflicts of

~~interest, or governmental ethics law.~~ Formal complaints must be made in writing on a form specifically provided by the Commission staff, ~~and must be dated, verified and signed by the complainant under penalty of perjury.~~ If the complainant is an entity, the complaint must be verified and signed under penalty of perjury by an authorized officer or agent of the entity. Formal complaints must include the following information, upon the complainant's information and belief:

- (a) the name and address of the respondent;
- (b) the provision(s) of law allegedly violated;
- (c) the facts constituting the alleged violation(s);
- (d) the names and addresses of witnesses, if any; and
- (e) identification of documents or other evidence which may prove the facts constituting the alleged violation(s), if any.

2. Formal complaints may be filed anonymously. Any formal complaint not filed anonymously must be verified and signed by the complainant under penalty of perjury. If the complainant is an entity, the complaint must be verified and signed under penalty of perjury by an authorized officer or agent of the entity.

(f) the name and address of the complainant; and

(g) ~~the telephone number at which the complainant may be reached during normal business hours.~~ 23. — The Executive Director shall process and review all formal complaints, following the process described in section IV.

B. Informal Complaints

Any person or entity may file an informal complaint alleging a violation of law by submitting a complaint by telephone, in person, or in writing other than on the form prescribed by the Commission. The Executive Director shall have no obligation but has the discretion to process and review informal complaints. ~~Informal complaints include the following: written complaints that are not verified or signed under penalty of perjury, and/or that do not contain the information required by Section III, subsection A, above; unwritten complaints; and referrals from other governmental agencies.~~

C. Complaints Initiated by the Commission Executive Director

The Executive Director may initiate C~~complaints may be initiated by the Commission, its staff, or any individual Commissioner.~~ These complaints need not conform to the requirements for formal complaints specified in subsection A of this Section. The Executive Director shall review and process all complaints initiated by the Commission and individual Commissioners. The Executive Director shall have no obligation but has the discretion to process and review complaints initiated by Commission staff.

D. Complaints Made at Public Meetings

The Commission shall not receive complaints at public meetings. The Commission shall urge the public in the strongest terms possible not to make complaints at public meetings.

IV. REVIEW OF COMPLAINTS

A. Preliminary Review. The Executive Director must conduct a preliminary review of each formal complaint. This inquiry may include reviewing relevant documents, communicating with the complainant, communicating with the respondent, and any other inquiry to determine whether a full investigation is warranted.

4B. There is No Reason to Believe a Violation OccurredDismissal of Complaint.
~~H. Based on the allegations and information contained in a complaint, and the Executive Director's preliminary review, the Executive Director may dismiss the complaint if the allegations do not warrant further action for reasons that may include, but are not limited to:~~

1. The evidence does not support the allegations.
2. The allegations, if true, do not constitute a violation of law within the Commission's jurisdiction.
3. The complaint contains an expression of opinions, rather than specific allegations.
4. The allegations contained in the complaint are already under investigation, or already have been resolved, by the Commission or another governmental or law enforcement agency. determines that there is no reason to believe that a violation of State or City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest or governmental ethics has occurred, the Executive Director may dismiss the complaint and

If the Executive Director dismisses a complaint under this section, the Executive Director shall take no further action on the complaint, except: 1) inform the complainant of the Executive Director's decision; 2) at his or her discretion, issue a warning letter to the respondent; and 3) at his or her discretion, refer the complaint to another agency for its appropriate action.

A.2.—The Executive Director shall provide a monthly summary to the Commission of each complaint dismissed, including the reasons for dismissal, provided that such information shall comply with the confidentiality requirements of the Charter.

+C. There is Reason to Believe a Violation May Have Occurred. If, based on the allegations and information contained in a complaint, and the Executive Director's preliminary review, the Executive Director determines that there is reason to believe that a violation of State or City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest or governmental ethics may have occurred, the Executive Director shall immediately forward the complaint to the District Attorney and the City Attorney. The Executive Director may commence an investigation and notify respondent(s) that a complaint has been filed by providing a brief summary of the allegations, excluding the name of the complainant.

B.2.—Within ten business days after receipt of the complaint, the District Attorney and City Attorney shall inform the Commission whether the District Attorney or City Attorney has initiated or intends to pursue an investigation of the complaint.

If neither the District Attorney nor City Attorney intends to pursue an investigation, within 14 days of such notification, the Executive Director shall inform the complainant

in writing of the action, if any, that he or she has taken or plans to take on the complaint, together with the reasons for such action or non-action. If the Executive Director has not informed the complainant of the action that he or she has taken or plans to take on the complaint within 14 days, the complainant shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

V. CONDUCT OF INVESTIGATIONS

B.3.A. Factual Investigation. ~~An~~ The Executive Director's investigation may include, but shall not be limited to, the interview of the respondent(s) and any witnesses, the deposition of respondent(s) and/or witnesses, and the review of documentary and other evidence.

B.4. Subpoenas. During an investigation, the Executive Director may if necessary compel by subpoena the testimony of witnesses and the production of documents relevant to the investigation.

V.VI. DETERMINATION THAT THERE IS NOT PROBABLE CAUSE TO BELIEVE A VIOLATION OF LAW HAS OCCURRED

A. Executive Director Determination and Calendaring. ~~At the conclusion of the investigation, if the Executive Director determines that there is not probable cause to believe that a violation of state or local law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics has occurred,~~ the Executive Director shall inform the Commission of that determination and provide clear and concise reasons supporting that determination. Thereafter any two or more members of the Commission may cause the item to be calendared for consideration by the full Commission in a closed session at the next Commission meeting held no sooner than ~~10~~ ten days after the date the Executive Director informs the Commission of the Executive Director's determination. Commissioner's requests that a complaint be calendared for consideration by the full Commission must be received by the Executive Director not less than ~~5 five~~ days prior to the date of the meeting, so that the Executive Director may comply with the applicable notice and agenda requirements.

A.+B. Commission Decision Not To Dismiss. If the matter is calendared for consideration by the Commission, and if the Commission decides that there is ~~probable cause~~ reason to believe that a violation of State or City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest or governmental ethics may have occurred, the Commission shall direct the Executive Director ~~either to either further investigate the matter further or to prepare a probable cause report and schedule a probable cause hearing.~~

CA.2. Commission Decision To Dismiss. If the matter is calendared for consideration by the Commission, and if the Commission decides that there is not ~~probable cause~~ reason to believe that a violation of law ~~has may have~~ occurred, the Commission shall take no further action on the complaint other than: 1) inform the complainant and respondent of the Commission's decision; 2) at the the Commission's discretion, issue a warning letter to the respondent; or 3) at the Commission's discretion, refer the complaint to another agency for its appropriate action.

A.3D. Commission Decision Not To Calendar. If the Executive Director determines that there is not probable cause to believe that a violation of State or City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest or governmental ethics has occurred, and if after the Executive Director informs the Commission of the determination, the Commission does not calendar the matter for consideration pursuant to section VI(A), the Executive Director shall take no further action except: 1) inform the complainant and respondent of the Executive Director's decision; 2) at his or her discretion, issue a warning letter to the respondent; or 3) at his or her discretion, refer the complaint to another agency for its appropriate action.

VI. VII.

RECOMMENDATION THAT THERE IS PROBABLE CAUSE TO BELIEVE A VIOLATION OF LAW HAS OCCURRED

A. Probable Cause Report. When If the Executive Director concludes an investigation, and determines there is probable cause to believe a violation of state or local law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics has occurred, the Executive Director shall prepare a written "probable cause report" and schedule a probable cause hearing. The probable cause report shall contain a summary of the laws that the Executive Director believes the respondent(s) violated and evidence gathered through the investigation, including any exculpatory and mitigating information. In the probable cause report, The the Executive Director may consider as evidence present statements including hearsay, declarations of investigators or others relating to the statements of witnesses, or the examination of physical evidence. Unless otherwise permitted by the Commission Chair or the Commission Chair's designee for good cause shown, the probable cause report shall not exceed 25 pages excluding attachments.

B. Delivery of Probable Cause Report and Notice of Probable Cause Hearing. The Executive Director shall deliver to the respondent a copy of the probable cause report. The complaint is deemed to have been brought by the Commission on the date of service. The Executive Director shall deliver to each respondent a copy of the probable cause report, with written notice of the date, time and location of the probable cause hearing, together with a copy of the probable cause report, at least 30-45 days in advance of the hearing date. The notice shall include a statement that inform each respondent that he or she has the right to be present and represented by counsel at the probable cause hearing.

C. Unless otherwise decided by the Commission, the Commission shall sit as a hearing panel to conduct the probable cause hearing. The Commission may assign one of its members or an outside hearing officer to conduct the probable cause hearing and submit a report and recommendation to the Commission.

VII.—RESPONSE TO THE PROBABLE CAUSE REPORT; REBUTTAL

AC. Response to the Probable Cause Report

1. Each respondent may submit a written response to the probable cause report. The response may contain legal arguments, a summary of evidence, and any mitigating or exculpatory information. Unless otherwise permitted by the Commission Chair or the

Commission Chair's designee for good cause shown, the response shall not exceed 25 pages excluding attachments.

2. Each respondent who chooses to submit a response must deliver the response no later than 15-20 days prior to the date of the probable cause hearing. Unless the parties agree to deliver materials by email, the respondent must deliver a total of eight copies of the response to the Commission and Executive Director. The Executive Director must then immediately distribute copies of the response to the Commission. The respondent must also deliver one copy of the response to each every other respondent named in the probable cause report.

BD. Rebuttal

The Executive Director may submit evidence or argument in rebuttal to a response. If the Executive Director chooses to do so, the Executive Director must ~~serve~~ deliver the rebuttal ~~on to~~ the Commission members and each respondent named in the probable cause report no later than 7-seven days prior to the date of the probable cause hearing. Unless otherwise permitted by the Commission Chair or the Commission Chair's designee for good cause shown, the rebuttal shall not exceed 15-ten pages excluding attachments.

VII.YIII. P

PROBABLE CAUSE HEARING; DETERMINATION OF WHETHER AND HOW TO PROCEED WITH A HEARING ON THE MERITS

A. General Rules and Procedures

1. Unless otherwise decided by the Commission, the Commission shall sit as a hearing panel to conduct the probable cause hearing. The Commission may assign one of its members to conduct the probable cause hearing and submit a report and recommendation to the Commission.

12. Unless the respondent requests that the probable cause hearing be held in public, Except for hearings regarding allegations of willful violations of the Sunshine Ordinance, the hearing shall be closed to the public to the extent permitted by state law, unless the respondent requests that the probable cause hearing be held in public. Probable cause hearings regarding allegations of willful violations of the Sunshine Ordinance shall be held at a public meeting unless otherwise provided in state or local law.

23. Unless otherwise decided by the Commission, Formal-formal rules of evidence shall not apply to the probable cause hearings held pursuant to these Regulations. Neither the Executive Director nor the respondent(s) may present live witness testimony during the probable cause hearing.

34. The Commission may find that there is probable cause to believe a violation of City-law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics has occurred only if a person of ordinary caution and prudence would conclude, based on if the evidence, that shows there is a reasonable ground to suspect that the respondent has committed the violation, is sufficient to lead a person of ordinary caution and prudence to believe that a violation has been committed and that the respondent committed or caused the violation.

B. Probable Cause Determination

1. If the Commission as a whole conducts the probable cause hearing, the Commission shall make the probable cause determination no later than 45 days after the date the hearing is concluded. If the Commission assigns one of its members ~~or an outside hearing officer~~ to conduct the probable cause hearing, the assigned member ~~or hearing officer~~ shall submit a report and recommendation to the Commission no later than 30 days after the date the hearing is concluded, and the Commission shall make the probable cause determination no later than 45 days after the assigned member delivers his or her report and recommendation is delivered.

2. A determination that there is probable cause to believe that a violation of law has occurred shall be based on the entire record of the proceedings. Each Commissioner who participates in the decision shall certify on the record that he or she personally heard or read the testimony (either in person or by listening to a tape or reading the transcript prepared by a court reporter) and reviewed the evidence, or otherwise reviewed the entire record.

3. The Commission shall not make a finding of probable cause if it is presented with clear and convincing evidence that, prior to the alleged violation:

- (a) the respondent had requested and obtained a written opinion from the Commission ~~or its staff~~; and
- (b) the respondent, in requesting the opinion, disclosed truthfully all the material facts pertinent to the case; and
- (c) the Commission or its staff issued a formal, written opinion with which both the District Attorney and City Attorney concurred; and
- (d) the respondent committed the acts or violations alleged in the complaint in good-faith reliance upon the formal, written opinion of the Commission ~~or its staff~~.

4. If the Commission determines that there is not probable cause to believe a violation has occurred, the Commission shall dismiss the complaint and take no further action on the complaint, except: ~~the Executive Director, 1) inform the complainant and each respondent of the Commission's decision; 2) at the Commission's discretion~~ direction of the Commission, issue a warning letter to the respondent; and 3) at the Commission's discretion ~~direction of the Commission, refer the complaint to another agency for its appropriate action.~~

5. If the Commission determines that there is probable cause to believe a violation of ~~City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics~~ has occurred, the Commission shall announce its this determination shall be announced in open session by the Commission. The announcement shall contain a summary of the allegations for which the Commission determines there is probable cause to believe a violation of law occurred and a cautionary statement that each respondent is presumed to be innocent unless and until such time that the allegations are proved in a subsequent hearing on the merits.

C. Determination How to Proceed with Hearing on Merits

1. Following a determination of probable cause by the Commission, the Commission shall proceed with a hearing on the merits of the complaint. Unless otherwise decided by the Commission, the Commission shall sit as the hearing panel to hear the merits of the case. The Commission also may sit as the hearing panel to hear the case; with an outside hearing officer presiding, or designate an individual Commissioner or an outside hearing officer to hear the case and file a report and recommendation for decision by the Commission.

2. The Commission shall provide for resolution of preliminary matters; in advance of the hearing on the merits, of preliminary matters. Unless otherwise decided by the Commission, the Commission Chair shall hear and decide preliminary matters pursuant to Section X subsection B. The Commission alternatively may designate an individual Commissioner or an outside hearing officer to hear and decide preliminary matters.

3. The Commissioner or hearing officer assigned to decide preliminary matters shall also be authorized to ~~shall also~~ provide for the issuance of subpoenas.

D. Amending Probable Cause Determination

Before the Executive Director has scheduled the hearing on the merits, or no later than 60 days prior to the date the hearing on the merits is scheduled to commence, the Executive Director may request that the Commission amend the probable cause determination to add or amend allegations or charges against the respondent. If the Executive Director seeks to amend the probable cause determination, the Executive Director, the respondent(s) and the Commission shall follow the procedures set forth in Sections VII and VIII, and the Executive Director shall issue an amended accusation and notice of the hearing on the merits following the procedures set forth in Section IX.

VIII. IX.

ISSUANCE OF ACCUSATION; SCHEDULING AND NOTICE OF HEARING ON MERITS

A. Issuance of Accusation

Except as provided in Section XI, following a determination of probable cause by the Commission, the Executive Director shall issue an accusation. The accusation shall clearly specify the provisions of the City Charter or ordinances which were that each respondent allegedly violated and shall set forth the acts or omissions with which each respondent is charged. The accusation shall list only those charges for which the Commission made a determination of probable cause. The Executive Director shall deliver a copy of the accusation to each respondent at least 45 days prior to the date of the hearing on the merits within ten days after the Commission's probable cause determination. The accusation is a public document.

The Executive Director shall present the case in support of the accusation at the hearing on the merits. The accusation shall be the charging document for the purpose of the hearing on the merits. The Commission shall not find that any respondent has committed a violation of law if the accusation does not allege such a violation and provide the respondent notice of the basis for the allegation.

B. Scheduling and Notice of Hearing on Merits

The Executive Director shall schedule the hearing on the merits, and deliver written notice of the date, time and location of the commencement of the hearing to each respondent at least 45 days prior to the date commencement of the hearing. The notice shall be in substantially the following form:

"You are hereby notified that a hearing will be held before the Ethics Commission (or name of hearing officer or assigned Commissioner) at ___ on the ___ day of ___, 20 ___, at the hour of ___, at (location of _____), upon the charges made in the accusation. You may be present at the hearing, may, but need not, be represented by counsel, may present any relevant evidence, and will be given an opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Commission on or before (date)."

IX. X. DISCOVERY; HEARING BRIEFS; PRELIMINARY MATTERS.

A. Discovery

The Executive Director and each respondent shall be entitled to pre-hearing discovery in accordance with the provisions of California Administrative Procedure Act, Government Code, Title 2, Division 3, Part 1, Chapter 5, section 11500 et seq.

B. Resolution of Preliminary and Procedural Matters

1. The Executive Director and any respondent may present preliminary matters, unrelated to the merits of the accusation, to the assigned Commissioner or hearing officer designated to hear such matters pursuant to Section VIII subsection C(2). Preliminary matters may include, but are not limited to, the following:

(a) procedural matters;

(b) disqualification of any member of the Commission from participation in the hearing on the merits;

(c) requests for dismissal of any charges in the accusation because, even if the allegations set forth in the accusation are true, those charges do not state a violation of law as alleged;

(d) discovery motions; and

(e) _____ any other matters not related to the truth or falsity of the factual allegations in the accusation.

2. A request for resolution of preliminary matters must be delivered to the assigned Commissioner or hearing officer no later than 25 days prior to the date commencement of a hearing on the merits. At the same time that the request is delivered to the assigned Commissioner or hearing officer, the requester must deliver copies of the request to the Executive Director and each every other respondent named in the accusation.

3. The request for resolution of preliminary matters may contain legal arguments and a summary of the facts underlying the request. Unless otherwise permitted by the assigned Commissioner or hearing officer for good cause shown, the request shall not exceed 15 pages excluding attachments.

4. The Executive Director and ~~each~~ every respondent may submit a written opposition to a request for resolution of preliminary matters. The opposition must be delivered to the assigned Commissioner or hearing officer no later than ~~15 days prior to the date of a hearing on the merits~~ ten days after the date of delivery of the request. At the same time that the opposition is delivered to the assigned Commissioner or hearing officer, the party submitting the opposition must deliver copies of the opposition to the Executive Director and ~~each~~ every other respondent named in the accusation. Unless otherwise permitted by the assigned Commissioner or hearing officer for good cause shown, the opposition shall not exceed ~~10~~ ten pages excluding attachments.

5. The requestor may submit a written reply to an opposition. The reply must be delivered to the assigned Commissioner or hearing officer no later than five days after the date of delivery of the opposition. At the same time that the reply is delivered to the assigned Commissioner or hearing officer, the party submitting the reply must deliver copies of the reply to the Executive Director and every other respondent named in the accusation. Unless otherwise permitted by the assigned Commissioner or hearing officer for good cause shown, the reply shall not exceed five pages excluding attachments.

56. — The assigned Commissioner or hearing officer shall issue a written decision on each request for resolution of preliminary matters no later than five days prior to the date commencement of the hearing on the merits.

67. The Executive Director or any respondent may submit a written request for reconsideration, by the Commission, assigned Commissioner or hearing officer who will conduct the hearing on the merits, of any decision made on preliminary matters. A party requesting reconsideration shall serve the request on the Commission, assigned Commissioner or hearing officer, and the Executive Director and any other respondent, no less than ~~3~~ three days prior to the hearing on the merits.

98. Before or during the hearing on the merits, the Executive Director and any respondent may file a request for resolution of a procedural matter affecting the conduct of the hearing. This request shall be directed to the Commissioner or hearing officer designated to hear preliminary matters pursuant to Section VIII subsection C(2). The request shall follow the process outlined by paragraphs 2 through 5 of this section, except that the request may be submitted later than 25 days prior to the commencement of the hearing on the merits but may not be submitted after the conclusion of the hearing on the merits. If either party requests a written decision, the assigned Commissioner or hearing officer shall issue a written decision no later than 20 days after the date of the request.

C. Hearing Briefs

The Executive Director shall, and any respondent may, submit a hearing brief. The brief shall outline significant legal arguments and list evidence and witnesses to be presented

at the hearing. The brief is not required to list anticipated rebuttal evidence or rebuttal witnesses. ~~Six~~ Unless the Commission or outside hearing officer agrees to accept briefs by email, ~~six~~ copies of the brief shall be delivered to the Commission, assigned Commissioner, or outside hearing officer no later than 20 days prior to the date of the hearing on the merits ~~commences~~. The Executive Director shall deliver a copy of the Executive Director's brief to each respondent named in the accusation. Each respondent who chooses to submit a brief shall deliver copies of the respondent's brief to the Executive Director and to ~~each~~ every other respondent named in the accusation.

D. Issuance of Hearing Subpoenas

The Executive Director and any respondent named in the accusation may request the issuance of subpoenas for the attendance of witnesses and for the production of documents at the hearing on the merits. Requests for the issuance of subpoenas should be delivered no later than 20 days prior to the ~~commencement of the~~ hearing on the merits. The request shall be accompanied by a declaration specifying the name and address of the witnesses and setting forth the materiality of their testimony. If the request is for a document subpoena, it shall be accompanied by a declaration which includes the following information: a specific description of the documents sought; an explanation of why the documents are necessary for the resolution of the complaint; and the name and address of the witness who has possession or control of the documents. Subpoenas may be issued ~~only upon approval of the Commission or the Commissioner or hearing officer~~ designated by Section VIII subsection C(2).

XI. DISCOVERY OF EXCULPATORY EVIDENCE INFORMATION AND DISMISSAL OF COMPLAINT PRIOR TO HEARING ON THE MERITS

A. Discovery of Exculpatory Information. Following the delivery of the probable cause report, if the Executive Director is aware of or discovers any exculpatory information with respect to any charge listed in the accusation, the Executive Director shall notify the Commission and the respondent(s) of this information.

B. Dismissal Recommendation. If the Executive Director discovers information which exonerates the respondent(s) ~~a~~ After a determination of probable cause and before a hearing on the merits, the Executive Director may present this exculpatory information to the Commission and recommend that the Commission dismissal of the complaint. The Executive Director may make such a recommendation based on the Executive Director's discovery of exculpatory information or other good cause. In such situations, if he or she has not done so already, the Executive Director is not required to issue an accusation and the Commission need not hold a hearing on the merits, unless the Commission overrides the Executive Director's dismissal recommendation, pursuant to Section XI-B.

BC. Commission Consideration of Dismissal Recommendation. The Executive Director shall present the exculpatory information and dismissal recommendation and the reasons for that recommendation to the Commission in a public memorandum.

Thereafter, any two or more members of the Commission may cause the complaint to be calendared for consideration by the full Commission in open session at the next Commission meeting occurring no sooner than ~~ten~~ 10 days from the date the Executive

Director informs the Commission of the Executive Director's recommendation. A Commissioner's request that a complaint be calendared must be received by the Executive Director no fewer than 5-five days prior to the date of the meeting, so that the Executive Director may comply with the applicable notice and agenda requirements. If two or more members of the Commission do not cause the complaint to be calendared, or if in open session a majority of the Commission does not vote to override the dismissal recommendation, the Commission shall take no further action on the complaint except: 1) inform the complainant and each respondent of the Commission's decision; 2) at the Commission's discretion, issue a warning letter to the respondent; or 3) at the Commission's discretion, refer the complaint to another agency for its appropriate action.

D. Dismissal or Removal of Specific Charges. After a determination of probable cause and before a hearing on the merits, the Executive Director may decide not to proceed with a specific charge or allegation listed in the accusation. If the Executive Director makes such a determination, the Executive Director immediately shall notify in writing the respondent(s) and the Commission or hearing officer. If the Executive Director provides such notice, the Commission shall not find a violation based on the specific charge or violation after a hearing on the merits.

XLXII. HEARING ON THE MERITS **H**

A. General Rules and Procedures

1. Public Hearing

The hearing on the merits shall be open to the public, provided that either the Executive Director or the respondent(s) may request that the Commission, assigned Commissioner or hearing officer exclude any witnesses. witnesses may be excluded at the discretion of the Commission, assigned Commissioner, or hearing officer.

2. Standard of Proof

The Commission may determine that a respondent has committed a violation of City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics has occurred only if a person of ordinary caution and prudence would conclude, based on a preponderance of the evidence, that the respondent has committed the violation has occurred.

3. Rules of Evidence

All evidence admissible in an administrative proceeding governed by the California Administrative Procedure Act shall be admissible in a hearing on the merits. The Executive Director and each respondent shall have the right to call and examine witnesses under oath or affirmation, to introduce exhibits, to cross-examine and impeach witnesses, and to rebut any evidence presented.

4. Exhibits

Where both parties stipulate to the admissibility of an exhibit, the parties shall so advise the Commission in advance of the hearing. For all other exhibits, each party may move

to admit a particular exhibit at the hearing, and the other party shall have an opportunity to object prior to the ruling on admission.

5. Witnesses

Witnesses shall be examined by the parties as follows: direct examination, cross-examination, re-direct. After the parties have concluded their examination of a witness, Commissioners shall have an opportunity to pose questions to the witness.

6. Oral Argument

At the hearing, the Executive Director and ~~each~~ every respondent shall be allowed oral argument. The Commission, assigned Commissioner, or hearing officer shall determine the appropriate length for the arguments.

B. Finding of Violation

If the Commission as a whole conducts the hearing on the merits, the Commission shall determine, no later than 475 days after the date the hearing is concluded, whether ~~a the~~ the respondent has committed a violation of City law has occurred. If the Commission assigns one of its members or an outside hearing officer to conduct the hearing on the merits, the assigned member or hearing officer shall submit a report and recommendation to the Commission no later than 30 days after the date the hearing is concluded. Thereafter, the Commission shall determine, no later than 45 days after the date the report and recommendation is delivered, whether the respondent has committed a violation of City law has occurred.

The votes of at least three Commissioners are required to find a violation of ~~City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics.~~ - The finding of a violation shall be supported by findings of fact and conclusions of law and shall be based on the entire record of the proceedings. Each Commissioner who participates in the decision shall certify on the record that he or she personally heard the testimony (either in person or by listening to a tape or recording of the proceeding) and reviewed the evidence, or otherwise reviewed the entire record of the proceedings.

C. Administrative Orders and Penalties

1. The votes of at least three Commissioners are required to impose orders and penalties for a violation. The Commission may issue orders and penalties requiring the respondent(s) to:

- (a) cease and desist the violation;
- (b) file any reports, statements or other documents or information required by law; and/or
- (c) pay a monetary penalty to the general fund of the City in an amount permitted under the law that the Commission finds the respondent has violated, or, if the law does not specify the amount of the monetary penalty, in an amount of up to five thousand dollars (\$5,000) for each violation, or three times the amount which the respondent failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater.

2. When deciding on an order and penalties, the Commission shall consider all the relevant circumstances surrounding the case, including but not limited to:

- (a) the severity of the violation;
- (b) the presence or absence of any intention to conceal, deceive, or mislead;
- (c) whether the violation was deliberate, negligent or inadvertent;
- (d) whether the violation was an isolated incident or part of a pattern;
- (e) whether the respondent has a prior record of violations of City law under the jurisdiction of the Commission relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics; and
- (f) the degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations.

3. Unless otherwise ordered by the Commission, any penalties imposed by the Commission must be paid in full by the respondent within 30 days of the Commission's decision.

D. Finding of No Violation

If the Commission determines that there is insufficient evidence to establish that the respondent has committed a violation ~~has occurred~~, or if the Commission determines that there is sufficient evidence to establish that the respondent has not committed a ~~no~~ violation ~~has occurred~~, the Commission shall publicly announce this fact. Thereafter, the Commission shall take no further action on the complaint. The Executive Director shall inform each respondent and complainant of the Commission's determination.

XII. III. M

ISCELLANEOUS PROVISIONS

A. Ex Parte Communications

Once a complaint is filed, no Commissioner or staff member shall engage in oral or written communications outside of a hearing ~~Commission meeting~~, interview or settlement conference regarding the merits of an enforcement action with the respondent or complainant or any person communicating on behalf of the respondent or complainant unless the communication is necessary for the conduct of the investigation or enforcement action.

B. Access to Complaints and Related Documents and Deliberations

1. Except as described in Subsection 3 for complaints alleging violations of the San Francisco Sunshine Ordinance, ~~n~~ No complaint, response thereto, investigative file or information contained therein, or Commissioner and staff deliberations about complaints shall be disclosed to any person other than a respondent or respondent's representative, the City Attorney, District Attorney, a court, a law enforcement agency, or otherwise except as necessary to the conduct of an investigation, prior to a probable cause ~~determination concerning probable cause.~~

2. After a determination of probable cause, complaints, related documents, and investigative files shall not be disclosed except as required by the California Public

Records Act (Government Code section 6250): the probable cause report, the response, and the rebuttal shall be confidential, unless the respondent requested that the probable cause hearing be public. All investigative documents, including notes and memoranda, created prior to the probable cause determination, such as the complaint, shall remain confidential, except that the Executive Director may provide a copy of the complaint to the respondent(s) if the Executive Director determines that disclosure is necessary to the conduct of the investigation. All investigative documents, including notes and memoranda, created by the Executive Director and his or her staff after the probable cause determination shall be confidential, except for the accusation, until any such documents are either delivered to the Commission or respondent(s), introduced as evidence or an exhibit, or distributed for public consumption, such as an agenda or press release.

3. For complaints alleging willful violations of the San Francisco Sunshine Ordinance (S.F. Administrative Code Ch. 67), no complaint, investigative file or information contained therein, or Commissioner or staff deliberations shall be disclosed except as necessary to the conduct of an investigation or as required by the California Public Records Act (Government Code section 6250, et seq.) or the San Francisco Sunshine Ordinance. Deliberations by a quorum of the Commission regarding such a complaint shall be conducted at a public meeting. In order to guarantee the integrity of the investigation, internal notes taken by the Executive Director or his or her staff shall not be disclosed until after the dismissal of a complaint or the Commission has issued its final decision following the hearing on the merits.

24. In addition to the prohibition on ex parte communications stated in Section XIII subsection A, except at a public meeting of the Commission, Commissioners and Commission staff are prohibited, prior to a final determination on the merits of a complaint, from engaging in oral or written communications regarding the merits of a complaint or enforcement action with any person or entity unless the communication is necessary for the conduct of the investigation or enforcement action. After a final determination on the merits of a complaint, Commissioners and staff members may discuss matters in the public record.

C. Oaths and Affirmations

The Commission, and individual Commissioners and hearing officers assigned to conduct hearings, may administer oaths and affirmations.

D. Selection of Designee by the Executive Director

Whenever the Executive Director designates an individual other than a member of the Commission staff to perform a duty arising from the Charter or these Regulations, the Executive Director shall notify the Commission of the designation no later than the next business day.

E. Powers and Duties of Hearing Officers

1. Unless otherwise provided, whenever the Commission assigns an individual Commissioner or hearing officer to hear any matter under these Regulations, the assigned Commissioner or hearing officer shall have the same authority, and be subject to the same restrictions, as the Commission.

2. When an individual Commissioner or a hearing officer is assigned to hear and decide preliminary matters in advance of a hearing on the merits, he or she shall make an actual determination. This determination may be reviewed by the Commission upon request by the Executive Director or a respondent, pursuant to the procedures specified in Section X† subsection B(67).

3. When an individual Commissioner or a hearing officer is assigned to conduct a probable cause hearing or hearing on the merits, he or she shall submit a report and recommendation for decision by the Commission. The report and recommendation shall contain proposed findings of fact and conclusions of law. Copies of the report and recommendation shall be delivered to the Commission, Executive Director, and each respondent no later than 30 days after the date the hearing is concluded. Thereafter, the Executive Director shall calendar the matter for consideration at the next Commission meeting not less than 15 days after the date the report and recommendation is delivered to the Commission.

4. When the Commission sits as the hearing panel to hear a case, with an outside hearing officer presiding, a hearing officer presides over a hearing conducted by the Commission, the hearing officer shall rule on procedural matters and on the admission and exclusion of evidence only, and shall have no role in the decision on the merits.

F. Statute of Limitations

1. Unless otherwise stated in local or State law, for statute of limitations purposes, an action or proceeding for administrative penalties is brought or commenced by the Executive Director on the date the Executive Director delivers the probable cause report.

~~A probable cause report must be served within the period specified in the applicable statute of limitations.~~ 2. If there is no statute of limitations for violations of the law allegedly violated, the probable cause report must be served/delivered within five four years of the date of events which form the basis of the complaint, or the date that the events constituting the basis of the complaint were discovered by the Ethics Commission, whichever is later.

~~For statute of limitations purposes, a complaint is filed by the Executive Director upon the date of service of the probable cause report.~~

G. Extensions of Time and Continuances

Whenever the Executive Director, a respondent, or a witness, ~~an assigned Commissioner or hearing officer~~ is required to complete an act or produce materials pursuant to these Regulations, that party may request an extension of time. Requests for extensions of time may be made to the Commission Chair or the Commission Chair's designee. The requester must ~~serve/deliver the request on to the Commission Chair or designee and provide a copy of the request to the opposing all other parties~~ no later than 10 ten ~~working business~~ working business days before the deadline to complete an act or produce materials. The Commission Chair or designee shall have the discretion to consider untimely requests. The Commission Chair ~~or the Commission Chair's designee~~ shall approve or deny the request within five working business days of the submission of the request. The

Commission Chair or the Commission Chair's designee may grant the request only upon a showing of good cause.

The Executive Director or any respondent may request the continuance of a hearing date. The requester must ~~serve deliver~~ the request ~~on to the Commission Chair or the individual Commissioner or hearing officer assigned to hold the hearing,~~ and provide a copy of the request to all other parties ~~the opposing party~~ no later than ~~14 ten working business~~ days before the date of the hearing. The Commission Chair ~~or the individual Commissioner or hearing officer assigned to hold the hearing~~ shall have the discretion to consider untimely requests.

The Commission Chair ~~or the individual Commissioner or hearing officer assigned to hold the hearing or the Commission Chair's designee~~ shall approve or deny the request within five ~~working business~~ days of the submission of the request. The Commission Chair ~~or the individual Commissioner or hearing officer assigned to hold the hearing~~ the Commission Chair's designee may grant the request only upon a showing of good cause.

II. Referrals to Other Enforcement Agencies

At any time after the ~~Commission takes jurisdiction over~~ filing of a complaint, the Commission or Executive Director may refer the matter to another government agency or official if the Commission ~~or Executive Director~~ determines that the agency or official may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law. A copy of all information gathered by the Commission staff shall be sent to the agency or official together with the referral.

A determination by the Executive Director ~~or the Commission~~ that no further action should be taken on a matter shall not prevent any other government agency from initiating its own enforcement action, including disciplinary action, based on the same allegations and facts.

I. Recordings and Transcripts

Every probable cause hearing and hearing on the merits shall be tape-recorded. ~~Where the Commission assigns a commissioner to conduct a probable cause hearing, and where the Commission assigns a commissioner or hearing officer to conduct a hearing on the merits, the hearing shall also be recorded stenographically, and the Commission shall retain the tapes shall be retained by the Commission until the opportunity for appeal legal challenge has been exhausted.~~ Copies of a tape shall be available to the respondent upon request. ~~Where the Commission assigns a commissioner or a hearing officer to determine probable cause or hear a case on the merits, the hearing shall also be recorded by a court reporter.~~

J. Place of Service or Delivery

1. Whenever these Regulations require ~~service on or~~ delivery to the Commission, its members, or the Executive Director, ~~service and~~ delivery shall be effected at the Commission office.

2. Whenever these regulations require ~~service on or~~ delivery to a respondent, or his or her committee, ~~service and~~ delivery shall be effective and sufficient if made by U.S.

~~Mail and Certified Mail, mail, or via personal delivery or any other means of delivery~~
agreed upon by the parties under section II subsection F, to:

(a) If the respondent is a City employee, to the address listed with the (Controller/ Payroll) as the employee's current address.

(b) If the respondent is a former City employee, to the address listed with the City's retirement system.

(c) If the respondent is a current or former candidate or committee registered with the Ethics Commission, to the address provided to the Ethics Commission by that candidate or committee.

(d) If subsections (a) through (c) are not applicable, to an address reasonably calculated to give notice to and reach the respondent.

~~It is the responsibility of City employees, or candidates or committees registered who file reports with the Ethics Commission, to maintain accurate addresses with relevant City Departments. The Executive Director therefore may rely on those addresses in carrying out the objectives of the Commission.~~

~~3. Service and delivery are~~Delivery is effective upon the date of ~~service~~delivery, not the date of receipt.

K. Page Limitations and Format Requirements

Whenever these Regulations impose a page limitation, a "page" means one side of an 8½ inch by 11 inch page, with margins of at least one inch at the left, right, top and bottom of the page, typewritten and double-spaced in no smaller than ~~11~~12 point type. Each page and any attachments shall be consecutively numbered.

L. Public Summary of Dismissed Complaints

Notwithstanding any other provision of these regulations, the Executive Director may provide a public summary of dismissed complaints. Such summary may include, but is ~~need not be~~ limited to, a generic description of each dismissed complaint and a summary of the reasons for dismissal, provided that such information shall comply with the confidentiality requirements of the Charter.

M. Conclusion of Hearing on the Merits

For the purposes of these Regulations, a hearing on the merits concludes on the last date on which the Commission hears argument or testimony in the proceeding.

~~XIII. XIV.~~..... S **tipulated OrdersSTIPULATED ORDERS**

~~1A.~~ At any time after the Commission takes jurisdiction over a complaint, the Executive Director may enter into negotiations with a respondent for the purpose of resolving the factual and legal allegations in a complaint by way of a stipulation, decision and order. Any proposed stipulation, decision and order shall explicitly state that:

(a~~1~~) the proposed stipulation, decision and order is subject to approval by the Commission;

(b2) the respondent knowingly and voluntarily waives any and all procedural rights under the law and these Regulations;

(e3) the respondent understands and acknowledges that the stipulation is not binding on any other law enforcement agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to the matter, or any other matter related to it;

(d4) the respondent agrees that in the event the Commission refuses to approve the proposed stipulation, it shall become null and void; and

(e5) in the event the Commission rejects the proposed stipulation and a full evidentiary hearing before the Commission becomes necessary, no member of the Commission shall be disqualified because of prior consideration of the stipulation.

2B. The stipulated order shall set forth the pertinent facts and may include an agreement as to anything that could be ordered by the Commission under its authority pursuant to Charter section C3.699-13+.

3C. Once the Executive Director enters into a stipulated agreement with a respondent, the Executive Director shall inform the Commission of this stipulation. Thereafter, any two or more members of the Commission may cause the stipulation to be calendared for consideration by the full Commission in a closed session at the next Commission meeting occurring no sooner than ~~44~~ten days from the date the Executive Director informs the Commission of the stipulated agreement. If there is a vacancy on the Commission or if a member must recuse himself or herself from consideration of the stipulated order, one member of the Commission may cause the stipulation to be calendared. Commissioners' requests that a stipulated agreement be calendared for consideration by the full Commission must be received by the Executive Director no fewer than ~~5~~five days prior to the date of the meeting, so that the Executive Director may comply with the applicable notice and agenda requirements. If the stipulated agreement is not calendared for consideration by the full Commission, the stipulated agreement is deemed approved by the Commission.

~~(b)-D.~~ Stipulated orders must be approved by the Commission and, upon approval, must be announced publicly. The stipulated order shall have the full force of an order of the Commission.

~~XIV. XV.~~

EVERABILITY

If any provision of these Regulations, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Regulations and the applicability of such provisions to other persons and circumstances shall not be affected, thereby.

S: Enforcement Investigations Enforcement Regulations Regulations Nov 2006.doc

S: Enforcement Proposed Changes May 2009 Enforcement Regs - proposed amendments 5-65-09.doc



ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

MIENNE S. STUDLEY
CHAIRPERSON

SUSAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: October 13, 2009

To: Members, Ethics Commission
Members, Sunshine Ordinance Task Force

From: John St. Croix, Executive Director

Re: Regulations regarding Ethics Commission enforcement of the Sunshine Ordinance

On April 24, 2009, the Ethics Commission ("Commission") and the Sunshine Ordinance Task Force ("Task Force") held a joint meeting to address matters within the jurisdiction of both bodies. At that meeting, Task Force members described how the Task Force evaluates complaints, issues findings and refers some matters to the Commission for further adjudication. The Commission's staff described the enforcement process set forth in the City's Charter and the Commission's enforcement regulations and discussed how the Commission has applied that process to Task Force referrals.

Under the Charter, the Commission has the authority to adopt regulations related to carrying out the purposes of the Sunshine Ordinance. Following the discussion at the joint meeting, Commission staff reviewed the Sunshine Ordinance and now proposes five regulations to clarify the Commission's handling of complaints alleging Sunshine Ordinance violations. The last of these proposals will be considered by the Ethics Commission at its meeting on October 19, 2009; the remainder will be crafted and considered once the Commission receives comments from the Task Force.

1. Sunshine Task Force Referrals Will Be Formal Complaints.

The Commission's Regulations for Investigations and Enforcement Proceedings ("Enforcement Regulations") distinguish between formal complaints, which are submitted in writing on a form prescribed by the Commission, and informal complaints, which are not submitted using the Commission's formal complaint form. Under the Enforcement Regulations, the Executive Director has discretion – but no obligation – to process and review informal complaints. The Executive Director must process formal complaints and may only dismiss them in limited circumstances.

Staff proposes amending the Commission's Enforcement Regulations to provide that any complaint referred to the Commission by the Task Force would be processed as a formal complaint. Under this proposal, the Executive Director would be required to

process and review all Task Force referrals and could only dismiss those matters in certain circumstances as set forth in the Enforcement Regulations.

When it accepts such complaints, the Commission would consider the Task Force's conclusions and findings, but would also conduct its own investigation. The Commission would not be bound by the Task Force's conclusion that the respondent had willfully violated the Sunshine Ordinance. The Commission is not the enforcement arm of the Task Force; the Commission will continue to conduct its own investigations and exercise its own judgment with respect to all of the complaints it handles.

2. The Ethics Commission Will Only Consider Intentional Violations Of the Sunshine Ordinance.

Section 67.34 of the Sunshine Ordinance describes the Commission's jurisdiction to handle enforcement of the Sunshine Ordinance. That section states, in relevant part, "[c]omplaints involving allegations of *willful violations* of this ordinance, the Brown Act or the Public Records Act by elected officials or department heads of the City and County of San Francisco shall be handled by the Ethics Commission." (emphasis added). The Commission has long concluded that the Ordinance only gives it the authority to enforce "willful" violations and that "willful" in this context means *intentionally and with knowledge that the act is a violation of the law*. To codify this longstanding understanding and interpretation of the Ordinance, staff proposes that the Commission adopt a regulation defining "willful." Under this definition, as it has been applied in practice by the Commission, a City employee or officer who withholds records in good faith reliance on the advice of the City Attorney's Office has not "willfully" violated the Sunshine Ordinance. Staff proposes that the Commission's regulatory definition of "willful violation" should address this common scenario by clarifying that an action taken in good faith reliance on the advice of the City Attorney cannot be a willful violation of the Sunshine Ordinance.

3. The Ethics Commission Will Have The Authority To Impose Penalties For Willful Sunshine Ordinance Violations.

While section 67.34 of the Sunshine Ordinance provides that the Ethics Commission must handle allegations of willful Sunshine Ordinance violations and section 67.35 mentions "proceedings for enforcement and penalties," the Sunshine Ordinance does not enumerate the potential penalties. Staff proposes that the Commission should adopt regulations setting penalties for willful violations. Specifically, staff proposes regulations that allow the Commission to impose monetary penalties after finding a willful violation. Staff also proposes that the regulations should allow the Commission to recommend discipline or removal – but not to impose discipline or removal – for department heads or managerial employees who have willfully violated the Sunshine Ordinance.

4. Under The Ordinance's Administrative Exhaustion Requirements, The Ethics Commission Will Not Initiate Complaints That Have Been Referred To The District Attorney Or Attorney General Unless The Law Enforcement Agency Takes No Action For 40 Days.

Finally, staff also proposes that the Commission adopt a regulation clarifying the administrative exhaustion requirement in section 67.35(d) of the Sunshine Ordinance. That section permits “any person” to institute proceedings in court or before the Ethics Commission “if enforcement action is not taken by a city or state official 40 days after a complaint is filed.” The Sunshine Ordinance does not describe what it means to “file” a “complaint” before going to court and does not define “enforcement action” or indicate which “city or state officials” have the power to take such action. By regulation, the Commission can adopt a reasonable interpretation that clarifies this 40-day requirement.

Staff concludes that the most reasonable interpretation of section 67.35(d) is that “filing” a “complaint” with a “city or state official” means referring an alleged violation to the District Attorney or Attorney General. The Sunshine Ordinance allows the Task Force or the Supervisor of Records to refer City officials to the District Attorney or Attorney General. *See* S.F. Admin. Code § 67.21(d) (if custodian of records refuses to make a record public, “the supervisor of records shall notify the district attorney or the attorney general who shall take whatever measures she or he deems necessary and appropriate to insure compliance with the provisions of this ordinance”); § 67.21(e) (if custodian of records refuses to make a record public after a Task Force order, “the Sunshine Task Force shall notify the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provisions of this ordinance”). Additionally, the District Attorney has civil and criminal enforcement authority under the Brown Act. *See* Cal. Gov’t Code §§ 54960, 54960.1, 54959.

Thus, staff proposes that the Commission adopt regulations to provide that whenever the Task Force, the Supervisor of Records or a complainant makes such a referral, section 67.35(d) requires the complainant to give the agency 40 days to act before initiating a proceeding with the Commission or in court. The Sunshine Ordinance does not require a referral to the District Attorney or Attorney General in every case, but in those circumstances where someone already has referred the matter, the regulation would prohibit the commencement of a Commission or court action unless the law enforcement agency receiving the referral has failed to act for 40 days.

5. Sunshine Enforcement Matters Will Be Public.

In advance of the Commission’s May 11 and October 19, 2009 meetings, staff proposed amendments to the Enforcement Regulations. One of the proposed amendments provides that enforcement proceedings involving alleged violations of the Sunshine Ordinance should not be subject to the same confidentiality rules as other types of complaints handled by the Commission.

Under that proposal, deliberations by the Commission regarding Sunshine enforcement matters would take place in open session at public meetings, not in closed session like other enforcement matters. Additionally, complaints, investigative files and other documents containing information about Sunshine enforcement matters will be public documents, if the Sunshine Ordinance requires disclosure. Finally, to protect the integrity of staff investigations, internal staff e-mails, memoranda, and notes regarding any particular Sunshine Ordinance matter will not be disclosed until after the dismissal of the complaint or the Commission has issued a final decision following the hearing on the merits on the Sunshine enforcement matter.

Staff believes that these changes are consistent with the purposes of the Sunshine Ordinance. The purpose of the Sunshine Ordinance is to promote transparency in government. Ensuring the transparency of the Commission's decision-making process regarding Sunshine Ordinance violations is consonant with that goal. Additionally, because most Sunshine Ordinance matters already have been discussed at public Task Force meetings before staff initiates an investigation, these matters have already become public.

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San Francisco Ethics Commission

**Annual Report
July 1, 2008 - June 30, 2009**

The Ethics Commission is pleased to present this report on the activities, progress, and accomplishments of its fourteenth year of operation to the Mayor, Board of Supervisors, and citizens of San Francisco.

Jamienne S. Studley
Chairperson

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SAN FRANCISCO ETHICS COMMISSION ANNUAL REPORT FY 2008-2009

The Ethics Commission serves the citizens of San Francisco, City employees, elected and appointed officials, and candidates for public office by enforcing the City's governmental ethics laws, providing education about their provisions, and serving as a repository for information.

The Commission acts as filing officer for campaign finance disclosure statements; audits statements for compliance with state and local laws; administers City laws regulating lobbyists and campaign consultants; investigates complaints alleging ethics law violations; serves as the filing officer for financial disclosure statements required from City officials; raises public awareness of ethics laws; researches and proposes ethics-related legislative changes; and provides ethics advice to candidates, office-holders, public officials, City and County employees and the general public.

The Commission is pledged to a high standard of excellence in government accountability, and to that end has worked not only to implement the law, but also to amend existing law or create new law that will further the principle of the voters' right to know and to ensure integrity in government decision-making and in the campaigns of those who wish to govern.

HIGHLIGHTS OF THE FOURTEENTH YEAR

The Commission continued to deliver a diverse array of work products and services to the citizens of San Francisco:

- Enforced reporting requirements for political committees, campaign consultants, lobbyists, and City officials;
- Conducted compliance audits of campaign finance committees;
- Continued the constant review of the Campaign Finance Reform Ordinance, making recommendations to the Board of Supervisors on changes to strengthen, clarify, and update campaign finance law. Drafted and adopted regulations to implement such changes;
- *Completed* five years worth of work on the Statements of Incompatible Activities after dozens of hours of deliberation by the Ethics Commissioners and hundreds of hours of meetings and discussions with department heads and personnel and hundreds more hours of meet and confer sessions with union representatives. *Adopted appropriate regulations and set them into effect in late 2008;*
- *Conducted an exhaustive review of the Lobbyist Ordinance and approved a series of important changes that may go into effect on January 1, 2010;*
- Conducted on-going sessions of its educational program on conflicts of interest, incompatible activities, candidate and treasurer information, campaign finance, public finance, on-line filing, lobbying, and other issues under its jurisdiction

surpassing the record number of sessions reached in the previous year. *Initiated a new on-line training program so that classes and training will be available in many areas for Ethics Commission clients to use at their convenience;*

- Provided informal written or oral advice and responded to requests for formal written advice letters;
- *Launched a new web site at www.sfethics.org and greatly expanded the nature and number of documents available on-line;*
- Facilitated interested persons meetings for the general public to provide input on issues under consideration by the Commission;
- Conducted hearings on requests for waivers from conflict of interest laws;
- Considered and adopted *or provided comment on* legislative changes recommended by the Board of Supervisors;
- Responded to hundreds of citizen inquiries; and
- Conducted an in-depth policy analysis and followed through with a number of policy updates and changes. Set the following policy priorities for the Commission and staff:
 1. *Education and Technology*
 2. *Campaign Finance Laws*
 3. *Communications with the Public*
 4. *Enforcement*
 5. *Conflicts of Interest*
 6. *Lobbyist and Campaign Consultant Ordinances.*

MANDATES AND ACCOMPLISHMENTS OF THE COMMISSION

The Commission's work covers ever-growing responsibilities, demanding consistent innovation in this extended period of budget shortfalls that impact funding and personnel. The Commission uses a five-year planning format to anticipate growth of staff and the dual needs for the Commission to better meet its currently existing mandates and to expand its abilities to regulate campaign finance activities and conflict-of-interest laws. The five-year plan is personnel-based and is adjusted yearly in consideration of budgetary influences, the creation of new laws and regulations under the Commission's jurisdiction, and housekeeping issues related to equipment, software and office space. In the long-term, the Commission estimates that it will require more than 30 staff members to provide top-quality service. The Commission remains committed to a sensible growth structure towards this goal.

Campaign Finance Regulation and Reporting

The Commission enforces the City's Campaign Finance Reform Ordinance (CFRO), which sets voluntary ceilings on campaign expenditures by candidates and imposes mandatory limits on contributions to candidates.

The Commission regularly reviews the operation of the CFRO, as well as the other City ordinances under its jurisdiction, enacts enabling regulations, and proposes substantive

and operational changes. It also advises on amendments proposed by the Board of Supervisors.

Under the Charter, the Commission serves as filing officer for five categories of local candidates and committees:

1. Candidates seeking election to local office and their controlled committees,
2. Committees formed or existing primarily to support or oppose candidates seeking election to local office,
3. Committees formed or existing primarily to support or oppose qualification or passage of a ballot measure being voted on only in San Francisco,
4. County general-purpose committees active only in San Francisco, and
5. Candidates and candidate committees for county central committee office.

As filing officer, the Commission promotes compliance by candidates and committees and maintains records of reports filed. It audits campaign statements and imposes penalties for failure to adhere to filing deadlines and reporting requirements. It also distributes the fine policy to all filers and imposes fines for late statements.

Regular semi-annual filings for active committees took place on *July 31, 2008 and January 31, 2009*. The November 2007 election occasioned the additional filing of pre-election reports on *October 5 and October 23*. *Quarterly filing deadlines occurred on October 31, 2008 and April 30, 2009 for committees primarily formed to support or oppose a ballot measure(s) not yet voted upon*. The Commission reminded committees of the deadlines, sent out notices to delinquent filers, and posted reports on its web site, www.sfethics.org.

Staff has endeavored to send out more advance notices than previous years through mail, email and phone calls in order to reduce the number of late filings.

Public Financing

San Francisco's public financing program for candidates for the Board of Supervisors was adopted through a ballot measure (Proposition O) in November 2000. The Commission administered the public financing program in elections for candidates for the Board of Supervisors in 2002, 2004, 2006 and 2008. *Campaigns are already gearing up for the Supervisorial races in 2010 and the Mayoral Race in 2011. Readers who wish to know more information about the public financing program are encouraged to read the reports on the Commission web site at:* <http://www.sfethics.org/ethics/2009/05/campaign-finance.html>

The Commission also spent time deliberating whether the qualifying documents and contributions of a particular candidate for Supervisor met the minimal requirements to gain approval for public financing. In addition, during the November 2008 election, staff spent considerable time tracking expenditures in order to adjust the individual expenditure ceilings governing publicly financed supervisorial candidates. This was the

first time that the revised public financing system was implemented utilizing individual expenditure ceilings. Staff also provided extensive outreach and education on the program and its requirements.

During the period covered by this report, the Commission and the Board of Supervisors approved some changes to alter the public financing programs. *In particular, the changes modified the calculation governing when a publicly financed candidate may access additional public funds.*

Following the 2008 elections, the Commission published a questionnaire for and received public comment from candidates and their staff members regarding their participation in the program.

Campaign Finance Reform Ordinance

As mentioned above, the Commission implemented several new provisions of the public financing program for candidates for the Board of Supervisors for the first time in the November 2008 election. These provisions required staff to track on a daily basis the independent expenditures, electioneering communications or member communications that clearly identify any candidate for the Board of Supervisors in order to make adjustments to the individual expenditure ceilings of publicly financed candidates. Subsequent to the election, Commission staff began crafting several proposed amendments to the CFRO that the Commission considered in late summer 2009.

The Commission also adopted regulations to implement Proposition H, approved by the voters in June 2008, which made changes to section 1.126 of the CFRO regulating the receipt of contributions by City elective officers from contractors with the City, the School Board and the Community College District.

Audit Program

The California Political Reform Act of 1974 and the City's CFRO require officeholders and candidates as well as campaign committees that support or oppose ballot measures or candidates to file finance statements disclosing campaign contributions and expenditures made in connection with a campaign.

The Commission serves as filing officer for statements required to be filed locally. The statements cover disclosure of monetary and non-monetary contributions including loans and enforceable promises, expenditures, unpaid bills and miscellaneous increases to cash. Filers must also keep detailed records of receipts and expenditures of \$25 or more.

The Commission audits the statements for compliance. Its process is outlined in an audit manual available to the public. Filers are selected for audit by random drawing at Commission meetings, or are targeted based on preliminary staff reviews. In addition, all publicly financed candidates are audited. *In 2008-2009, staff completed audits of*

committees selected for audit from the year 2007 audit pool and commenced audits of supervisory candidates who received public funds in the November 2008 election.

Sunshine Ordinance Declarations

The San Francisco Sunshine Ordinance requires department heads and commissioners who are required to file Statements of Economic Interests ("SEIs") with the Ethics Commission to sign an annual declaration stating under penalty of perjury that they have read the Sunshine Ordinance and have attended, or will attend, an annual training on the Sunshine Ordinance. *The training program is and remains available on the City Attorney's web site and can be accessed from the Commission's web site.*

The adoption of the Netfile system enabled the Commission to provide for on-line filing of SEIs. In addition, the Commission has scanned the SEIs so that they are available for view on the Commission's website.

The Commission also held a joint meeting with the Sunshine Ordinance Task Force to discuss issues of mutual concern, including ways to communicate better and the particular treatment of referrals from the Sunshine Ordinance Task Force to the Ethics Commission. Staff has proposed opening up part of the enforcement process when considering SOTF referrals. This proposal is pending before the Commission. Staff is also considering other ideas to follow-up on this particular meeting and is expected to produce recommendations in calendar 2009.

Lobbyist Registration and Reporting

Lobbyists are required by ordinance to register with the City and file quarterly reports of any activity intended to influence local legislative or administrative action. The Commission reviews lobbyist statements to ensure completeness and accuracy. It assesses penalties for failure to adhere to deadlines and other requirements.

Registration is triggered by a threshold level of activity based on the number of City officials contacted and/or the amount of payments received or made. The threshold varies according to the type of lobbying engaged in.

Statements must disclose which City officials were contacted, the positions advocated by the lobbyist, and any campaign contributions or gifts donated. Contract lobbyists are required to disclose the names of their clients and how much money they received from them. Lobbyists who advocate on their own behalf are required to disclose payments made for the purpose of influencing local legislative or administrative action.

The Commission summarizes statements in quarterly reports it issues soon after the filing deadlines. The reports are posted on the Commission's web site.

At the close of the fiscal year, there were 42 lobbyists registered with the Commission reporting more than \$6.5 million in earnings for the fiscal year.

During its extensive review of the Lobbyist Ordinance, the Commission determined that it would move to an electronic filing format which, if adopted by the Board of Supervisors and signed into law by the Mayor, will take effect on January 1, 2010. Complementing this decision, the Commissioners adopted the following major changes in the lobbyist program:

- Approved amending the Ordinance to state that providing oral information to a City officer in response to a request from that officer is not a contact for the purpose of determining whether the person providing the information qualifies as a lobbyist. But a person who otherwise qualifies as a lobbyist must report such a communication as a contact.*
- Approved amending the Ordinance to provide that a communication seeking the status of an action is not a contact for the purposes of qualifying as a lobbyist. A person who otherwise qualifies as a lobbyist must report the communication as a contact if it is a communication to influence local legislative or administrative action under section 2.105(d)(2)(B).*
- Approved amending the Ordinance to narrow the exception for expert communications such that only a person providing purely technical data, analysis or expertise in the presence of a registered lobbyist is not making a "contact" under the Ordinance.*
- Approved amending the Ordinance to provide that a person negotiating the terms of a contract after being selected to enter into a contract with the City is not making a "contact" under the Ordinance.*
- Approved amending the Ordinance to provide that a person appearing as a party or a representative of a party in an administrative adjudicatory proceeding before a City agency or department is not making a "contact" under the Ordinance.*
- Approved amending the Ordinance to state that a person communicating on behalf of a labor union representing City employees regarding the establishment, amendment, or interpretation of a collective bargaining agreement (CBA) or memorandum of understanding (MOU) with the City, or communicating about a management decision regarding the working conditions of employees represented by a CBA or MOU is not making a "contact" under the Ordinance.*
- Approved amending the Ordinance to provide that, unless representing a client, a person participating in a public interested persons meeting, workshop or other forum convened by a City department for the purpose of soliciting public input is not making a "contact" under the Ordinance.*
- Approved amending the Ordinance so that the term "economic consideration" does not include salary, wages or benefits furnished by a federal, state or local agency.*
- Approved amending the Ordinance to create a single category of lobbyists. A lobbyist would be defined as any individual who receives or is promised \$3,000 or more in economic consideration within three consecutive months for lobbyist services and makes at least one contact with a City officer on behalf of the person(s) providing the economic consideration.*

- *Approved amending the Ordinance to require any individual who qualifies as a lobbyist to register with the Ethics Commission no later than five business days after qualifying as a lobbyist and, in any event, prior to making any additional contacts with any City officer.*
- *Approved amending the Ordinance to require lobbyists to disclose activities on a monthly basis, and a Commission policy to revisit the frequency and timing of filing requirements within six months of the date of implementation of an electronic filing system; lobbyists will also be required to disclose the dates of their contacts with City officers.*
- *Approved amending the Ordinance to require lobbyists to disclose information such as the local legislative or administrative action that they sought to influence, including, if any, the time and file number of any resolution, motion, appeal, application, entitlement, or contact, and the outcome sought by the client, as well as the economic consideration received or expected by the lobbyist from each client during the reporting period.*
- *Approved amending the Ordinance to require disclosure of additional information regarding political contributions made, arranged, or delivered by a lobbyist or made by a client at the behest of the lobbyist or lobbyist's employer, including the amount and date of the contribution, name and street address of the contributor, contributor's occupation and employer, or if self-employed, the name of the contributor's business, and the committee to which the contribution was made.*
- *Approved amending the Ordinance to require lobbyists to undergo a training during the first year of registration and thereafter as necessary as determined by the Executive Director.*

Campaign Consultant Registration and Reporting

The Regulation of Campaign Consultants Ordinance, passed in 1997, requires anyone who earns \$1,000 or more in a calendar year from activity as a campaign consultant to register with the City and submit quarterly reports.

Campaign consultants are required to report names of clients, services provided, payments received, contributions and gifts made to local officials, and other information. The Commission prepares summaries of the quarterly filings, posts them on the web site, and publishes a manual. During the fiscal year, 41 campaign consultants registered with the Commission, reporting earnings of \$5,690,080.

The Campaign Consultant Ordinance is the result of a voter referendum and therefore is not subject to changes without additional voter approval.

Investigations and Enforcement

The San Francisco Charter charges the Ethics Commission with authority to investigate alleged violations of laws governing campaign finance, lobbying, conflicts of interest, and government ethics. In addition, the Improper Government Activities Ordinance, also

known as the Whistleblower Ordinance, directs the Commission to investigate charges of retaliation directed against complainants.

During the year, the Enforcement staff resolved 32 cases, including four that went to settlement (settlement summaries are available on the Commission web site). *Staff advanced one case to a hearing on the merits, the first in the Commission's history.* A number of other cases remain under investigation.

Education and Outreach

The Commission has a strong institutional commitment to educate the public about San Francisco's ethics laws and to support campaign reform and government accountability efforts consistent with City policy throughout the state and elsewhere.

It conducts ongoing informational programs about ethics-related laws and requirements. It produces educational materials and actively publicizes its outreach activities through public notices.

Between July 2008 and the present, staff conducted workshops and meetings on 83 occasions for 2,223 persons, on subjects that included, but were not limited to: public financing, on-line filing and the new electronic filing system, the Lobbyist Ordinance, candidate forums for Supervisor, forums for treasurers, Statements of Economic Interests, and individual City agency conflict of interest seminars. See Attachment 1. Staff also conducted one-on-one sessions with officials and employees. Staff also conducted seven ethics seminars for delegations of international visitors from over twenty nations.

The Commission works to educate City and County employees in individual departments regarding ethics rules with a focus on conflict of interest laws. Commission staff has created – and constantly updated -- presentations that instruct civic employees on the several laws – local and state – that prescribe conflict of interest rules. While complex, these trainings help present the requirements in a common-sense approach. The feedback from such presentations has been quite positive and the Commission will endeavor to continue such outreach on an ever-wider basis as staffing levels allow.

Advice and Opinions

The Commission is charged with interpreting and applying the conflict laws under its jurisdiction, requiring that it consider requests for waivers, which it routinely does, and that it issue formal and informal written advice on matters requiring interpretation.

Commission staff is available each workday to answer public inquiries about San Francisco ethics laws. During the course of the year, the number of inquiries run into the hundreds. *In the fiscal year, the Commission issued six advice letters, covering compensated advocacy, mass mailings, liability for accrued expenses and cross-filing rules.*

Electronic Advances

Starting in 2008, the Ethics Commission converted its on-line filing operations from the limited-capability system that it used previously to a state-of-the-art application operated by the private vendor Netfile. Working with Netfile, staff has been able to provide the user community with a much easier and comprehensive program. *Five campaign finance forms are now available for submission in electronic format that are instantly accessible on-line to the public upon receipt.* Staff continues to work with Netfile to upgrade and expand system capabilities.

Staff has created much greater access to filings made at the Ethics Commission for on-line users. *The Commission's records database is now available on-line to the public. Staff continues scanning all forms on file at the Commission for recent years and posting them to the Commission's web site;* this means that the public has access to paper-only documents that have never been available to on-line users. Previously, people searching for paper documents could only view them at the Ethics Commission office; now they have the option to view them on-line. *Over 15,500 records are now viewable on the Commission's web site. In addition, the same campaign finance data report used by Commission audit staff has also been made available to the public.*

The Commission has also made Ethics Commission training modules accessible on-line, so that the regulated community will have opportunities to attend public trainings or to satisfy training requirements at their own convenience.

The Commission launched a new web site and obtained its own web site domain at www.sfethics.org. The new web site offers a wealth of new services including:

- *Better compliance with World Wide Web Consortium (W3C) and Federal Section 508 web accessibility standards;*
- *A calendar of deadlines, trainings and events;*
- *RSS feeds for the public to track new information posted to the site;*
- *Connections to social networking sites to expand the Commission's communications capabilities;*
- *Audio recordings of Ethics Commission meetings accessible on the web and the iTunes Local Government Podcast Directory;*
- *Improved back-end statistical reporting to help better understand how the public navigates and uses the web site; and*
- *Training and educational videos.*

POLICY RECOMMENDATIONS

The Commission is charged with making policy recommendations on issues under its jurisdiction. The Commission endeavors to create new legislation that makes campaign finance and ethics laws and regulations more effective while being easier to comprehend and also works as a partner with the Board of Supervisors in effecting positive changes to the Administrative Code, the Campaign and Governmental Conduct Code and other

statutes governing the City. It has been *energetically* reviewing the breadth of its mission and continuously prioritizes its work as need and progress require.

The Commission seeks at all time to be proactive in its work, its outreach and its relations. For this particular year, the Commission determined that the following were areas of priority for the Commission to consider and improve.

1. *Education and Technology*
2. *Campaign Finance Laws*
3. *Communications with the Public*
4. *Enforcement*
5. *Conflicts of Interest*
6. *Lobbyist and Campaign Consultant Ordinances.*

Education and Technology – *The Commission made significant technological advancements including: on-line training and education classes; a new web site that better connects with the community; digitizing Commission filings and making records accessible on-line; and enhancements to on-line filing including making additional forms available in electronic format.*

Campaign Finance Laws – *the Commission implemented complex changes to the public financing laws related to individual expenditure ceilings this fiscal year. In addition, it approved amendments to modify the calculation governing when a publicly financed candidate may access additional public funds. After the election, the Commission began taking steps to propose substantive amendments to the CFRO. The Commission also recommended and adopted regulations to implement the voter-approved Proposition H to provide guidance on when elected officials are barred from soliciting or receiving contributions from contractors.*

Communications with the Public – *the Commission set aside a portion of its November 2008 meeting to discuss this subject and some positive feedback was received from the Department of Human Resources and the general public on the quality of Commission communications. The Commission also scheduled a first-time joint meeting with the Sunshine Ordinance Task Force in April of 2009 which appears will result in changes in the methods the two bodies use to relate to each other.*

Enforcement – *after the Commission completed work on its first ever Hearing on the Merits, Commission staff worked closely with Commissioner Harriman to draft new and improved regulations related to the conduct of enforcement duties, particularly those governing procedures in probable cause hearings and hearings on the merit. The series of recommendations in these areas is currently pending before the Commission.*

Conflicts of Interest – *As noted earlier, the Commission completed its several-year review of Statements of Incompatible Activities, with the final SIAs for all departments, boards and commissions approved on September 8, 20008. On October 8, all the SIAs went into effect; Commission staff then worked with several departments to develop and present trainings on ethics and the SIAs. Such trainings remain ongoing. Earlier in the*

fiscal year, the Commission proposed and approved regulations that address various aspects of the SIAs relating to the advance written determination, handling of complaints of alleged violations of the SIAs and penalties for violations.

This fiscal year, the Commission also proposed legislation to amend the post-employment restrictions set forth in section 3.234 of the Campaign and Governmental Conduct Code. The amendments, which will become effective on October 25, 2009, extend the one-year restriction on communicating with one's former department to employees and officers who have transferred departments within the City, and provide that an officer or employee may not be employed by a party to a City contract within one year after the contract date if the officer or employee participated personally and substantially in the award of the contract.

Lobbyists and Campaign Consultant Ordinances – as stated earlier, the Campaign Consultant Ordinance would require the approval of the voters; the Commission may choose in the future to offer a ballot measure on this subject. The exhaustive Lobbyist Ordinance proposals approved by the Commission involved not only a numerous Commission meeting hours but also a number of Interested Persons Meetings, one-on-one meetings and telephone calls, a great deal of public input and lots of background research by staff. The result is expected to be a better lobbyist program with more transparency and easier-to-attain and understandable information about who is working to influence and who is paying to influence governmental decisions.

AFFILIATIONS

The Commission is a member of the Council on Governmental Ethics Laws (COGEL) but due to budget limitations no longer attends the annual convention.

BUDGET

The Commission's annual approved budget totals are as follows:

FY 94 - 95	\$157,000
FY 95 - 96	261,000
FY 96 - 97	313,274
FY 97 - 98	394,184
FY 98 - 99	475,646
FY 99 - 00	610,931
FY 00 - 01	727,787
FY 01 - 02	877,740
FY 02 - 03	1,156,295
FY 03 - 04	909,518
FY 04 - 05	1,052,389
FY 05 - 06	1,382,441
FY 06 - 07	8,416,109* (1,711,835 non-grant funding)
FY 07 - 08	3,592,078 ** (2,261,877 non-grant funding)
FY 08-09	5,453,874 (2,241,818 non-grant funding)

*Includes 6,704,274 front-loaded funding for Mayoral Election Campaign Fund

**Includes 1,358,747 annual set-aside for the Election Campaign Fund

The Commission actually received an approximate 3% increase in its budget at a time when the City was required to institute many severe cuts in order to achieve a balanced budget. However, this increase did not prevent the Commission from losing a full-time permanent position in the new fiscal year.

MEMBERSHIP AND ADMINISTRATION

Commission membership was as follows:

<u>Commissioner</u>	<u>Appointed By</u>	<u>Dates of Service</u>
Jamienne S. Studley	City Attorney	1-2007 to 2-2008 2-2008 to 2-2014
Eileen Hansen	Board of Supervisors	2-2005 to 2-2011
Susan J. Harriman	Mayor	3-2006 to 2-2012
Charles L. Ward	District Attorney	7-2006 to 2-2007 2-2007 to 2-2013
Emi Gusukuma	Assessor	3-2004 to 2-2010

Commissioner Jamie Studley was elected to serve as Chair beginning in February 2008 and Commissioner Susan Harriman was elected Vice-Chair.

The Ethics Commission had a staff of nineteen, supported by temporary staff and interns throughout the year. Staff included Executive Director John St. Croix; Deputy Executive Director Mabel Ng; Assistant Deputy Director Shaista Shaikh; Auditors John Chan, Menaka Mahajan and Selina Chan; Public Finance Clerk Marvin Ford; Office Manager Jen Taloa; Campaign Finance Officer *Jarrod Flores*; Fines Collection Officer Oliver Luby; Campaign Finance Assistants *Dawn Lin*, *Christian Narvaez* and *Demarie Dizon*; Chief Enforcement Officer Richard Mo; Assistant Investigators Paul Solis, Garrett Chatfield and Catherine Argumedo; Investigations Clerk Carmen Torres; IT Officer Steven Massey; and Education and Outreach Coordinator Judy Chang. Temporary staff included Campaign Finance Assistants Felipe Colin, and Harley Chea. In addition to the staff above, interns included: *Anna Schember from Bowdoin University*, *Jane Kim from St. Ignatius High School*, *Jamie Bricmont from Bard College* and *Kamal Boparani from San Jose State University*.

FUTURE INITIATIVES

The Commission will continue to fulfill its mandated duties in the forthcoming years, with a particular focus on achieving the following priority objectives:

- The Commission is dedicated to increasing public confidence in its mission and to delivering fairness both in its actions and the perception of its actions.
- The Commission will actively demonstrate its commitment to the education of the public, the regulated community, the City's leadership body and the employees of the City and County through continued educational forums, seminars, on-line tutorials and other outreach mechanisms in order to strengthen both the understanding of and adherence to the laws under the Commission's jurisdiction.
- The Commission will continue the ongoing process of reviewing, updating and renewing the Campaign Finance Reform Ordinance in order to keep pace with changes in policy, technology, civic needs and campaign modernization.
- The Commission will expand its communications and improve its relations with the general public and work to ensure that there is general understanding in the community about the Commission's work, mission and decision-making processes.
- The Commission will work continually to expand the scope of its enforcement and investigation activity, to analyze the needs and accomplishments in this area and to make productive use of staff and other resources.
- The Commission will place new emphasis on resolving conflicts of interest and also the appearance of conflicts of interest by City agencies, officials, department heads and candidates and campaigns through both the education and investigations processes.
- The Commission will *implement changes to* the Lobbyist Ordinance and conduct a review of the Campaign Consultant program in order to seek improved regulations and reporting requirements.
- The Commission will *continue to* work with various City departments, boards and commissions to *inform members and employees of the various ethics rules that govern them*. The Commission and staff will take advantage of training, education and other opportunities that will help advance its capabilities.
- The Commission will endeavor to provide timely and comprehensible advice.
- The Commission will work to secure sufficient budget resources to meet its mandates.
- The Commission will continue to monitor the application of laws within its jurisdiction and will continue to propose amendments and regulations as appropriate.

Respectfully Submitted,

John St. Croix, Executive Director

ATTACHMENT 1

Approximately 2,223 people participated in the 83 trainings and informational meetings sessions listed below.

Date	# of Trainings or Meetings	Training Name and Description	Approx. # of People
July 8 and August 25, 2008	2	Staff conducted a Candidates' Training which covered filing requirements for potential candidates for the City elective offices of Board of Supervisors for Districts 1, 3, 4, 5, 7, 9, 11, Board of Education, and Community College Board for the November 4, 2008 Election.	40
July 9 and 15, 2008	6	Staff facilitated small group hands-on clinics for users of the San Francisco Electronic Disclosure System (SFEDS).	20
July 15, 2008	2	Staff facilitated a SFEDS Training for first-time SFEDS users. Some of the participants followed up the training with a SFEDS clinic to receive support on how to enter in their committee's specific filing information.	25
August 6, 2008	1	Staff met with a State Department delegation of visitors from Central and South America. The 18 visitors, who are active in the politics and communities of their home countries, were part of a regional project on Anti-Corruption and Accountability in Government and Business. During their visit to the United States, they met with various governmental officials to examine the ethical standards of conduct in government and business that underlie the American democratic system and to explore how ethical standards are defined, monitored and enforced. It was the first time that staff experienced simultaneous translations through transmitters as the visitors asked questions in Spanish and interpreters translated them into English, or staff spoke in English and interpreters translated into Spanish.	18
August 15, 2008	1	Staff attended the quarterly meeting of the California Political Treasurers Association. Staff provided information regarding the new standards of service to the public and Commission operations, as approved by the Commission at its meeting in March of this year.	20
August 18, 2008	1	Staff conducted a Recipient Committee Training for treasurers who were interested in fulfilling the training requirement under the Campaign Finance Reform Ordinance.	35
August 21 and September 2, 2008	3	All of the Ethics staff received training on all ethics laws governing City employees as well as the provisions of the Commission's Statement of Incompatible Activities. The training was very well received.	22

August 28, 2008	1	Staff made a presentation on the gift rules that govern City employees to attendees at the Management Academy I of the Human Services Agency, which provided training and orientation about City processes to new supervisors and managers at HAS.	22
September 9, 2008	1	Staff conducted a Candidates' Training which covered filing requirements for potential candidates for the City elective offices of Board of Supervisors for Districts 1, 3, 4, 5, 7, 9, 11, Board of Education, and Community College Board for the November 4, 2008 Election.	38
September 9, 2008	1	Staff conducted a Recipient Committee Training for treasurers who were interested in fulfilling the training requirement under the Campaign Finance Reform Ordinance.	25
September 9, 29, and 30, 2008	3	Staff facilitated San Francisco Electronic Disclosure System (SFEDS) Trainings for first-time SFEDS users.	55
September 17, 2008	1	Staff participated in an overview presentation of the Statements of Incompatible Activities before City departmental personnel officers.	10
September 18, 2008	1	Staff met with a group of visitors from Spain who were sponsored by the Department of State's International Visitor Leadership Program to study the American political system. They were here to listen to how the Ethics Commission works to affect public policy by taking the initiative to solve problems and create a healthy environment for business and economic growth. In the process, they learned about our campaign finance system, how the Commission is structured, and how we conduct audits and investigations, among other things. The group was accompanied by simultaneous interpreters.	5
October 2, 2008	1	Staff made a presentation on the SIA to the general managers of the General Services Agency.	15
October 2, 2008	1	Staff met with Mr. Afzal Latif, Deputy Secretary of the Cabinet Secretariat of Pakistan, who was a guest of the U.S. Department of State's Institute of International Education/West Coast. Mr. Latif was in the U.S. to discuss civil service reform and political independence in government agencies; in particular, he was interested in discussing how the Ethics Commission uses education and enforcement to promote higher standards of ethical behavior in government.	1
October 6, 2008	1	Staff conducted a Candidates' Training, which covered filing requirements for potential candidates for the City elective offices of Board of Supervisors for Districts 1, 3, 4, 5, 7, 9, 11, Board of Education, and Community College Board for the November 4, 2008 election.	30
October 23, 2008	1	Staff met with Laura Alonso, Executive Director of Fundacion Poder Ciudadano, Buenos Aires, Argentina, a chapter of Transparency International, who was visiting the U.S. as an	1

		Eisenhower Fellow in the 2008 Latin American Regional Program. The Eisenhower Fellowships is a non-profit and non-partisan international leadership organization based in Philadelphia that brings emerging leaders from around the world to the U.S. for two months to meet with experts in their fields of interest. Ms. Alonso was here to explore the U.S. political system, campaign financing, public administration, and mechanisms for promoting an open, pluralistic society.	
October 8, 2008	1	Office of Citizen Complaints Statement of Incompatible Activities Training and Ethics Training for City Employees	45
October 20, 2008	1	Department of Public Health Statement of Incompatible Activities Training and Ethics Training for City Employees	34
October 27, November 24, December 16, 2008	3	Controller's Office S Statement of Incompatible Activities Training and Ethics Training for City Employees	160
October 28, November 12 and 13, 2008	3	Board of Supervisors Statement of Incompatible Activities Training and Ethics Training for City Employees	82
November 19, 2008	1	Staff met with 23 members of the Yunnan Public Administration. The delegation was sponsored by the U.S.-China Exchange Council, a California non-profit organization that conducts various professional exchange programs in order to deepen economic and cultural ties between the U.S. and China. The discussion focused on the mission of the Ethics Commission, conflicts of interest, investigations and education.	23
November 24, 2008	1	Staff met with representatives of the Provincial Department of Supervision from Henan Province, China. The delegation was hosted by the Triway International Group of Falls Church, Virginia, which provides professional training and designs visits to Chinese delegations in the U.S. The discussion focused on the mission and structure of the Ethics Commission, conflicts of interest, investigations and penalties.	20
November 21, December 29, 2008 January 14, 2009	3	Department of Human Resources Statement of Incompatible Activities Training and Ethics Training for City Employees	294
December 18, 2008	2	Human Services Administration and Department of Aging Statement of Incompatible Activities Training and Ethics Training for City Employees	25
January 6 and 29, 2009	3	Department of Recreation and Park Statement of Incompatible Activities Training and Ethics Training for City Employees	90
January 13, 2009	1	Staff met with Akram Belkaid, a visitor from France who was visiting to discuss the structure and function of democracy in the United States; the interaction of federal, state and local	1

		government; and approaches to civil service reform. Mr. Belkaid was a participant in the U.S. Department of State's International Visitor Leadership Program and was sponsored by the International Visitor Leadership Program and the Institute of International Education/West Coast Center.	
January 23, 2009	1	Staff conducted a Statement of Economic Interests (SEI) Training for Filing Officers and Commission secretaries covering roles and responsibilities, how to conduct a facial audit if the SEI, how to manage the filings of designated employees, department heads, and members of boards and commissions.	12
February 19, 2009	2	Treasurer and Tax Collector Statement of Incompatible Activities Training and Ethics Training for City Employees	20
February 23, 2009	3	Adult Probation Department Statement of Incompatible Activities Training and Ethics Training for City Employees	10
March 3, 2009	1	Staff conducted a Statement of Economic Interests (SEI) Training for Filing Officers and Commission secretaries covering roles and responsibilities, how to conduct a facial audit if the SEI, how to manage the filings of designated employees, department heads, and members of boards and commissions.	15
March 3 and 10, 2009	2	Staff conducted a Statement of Economic Interests (SEI) Training for Filing Officers and Commission secretaries covering roles and responsibilities, how to conduct a facial audit of the SEI, and how to manage the filings of designated employees, department heads, and members of boards and commissions.	34
March 18 and 26, 2009	2	Staff conducted SEI trainings for members of boards and commissions and department heads, covering and responding to questions about their filing requirements.	17
March 16, 2009	1	Staff provided a Lobbyist Ordinance Training for lobbyists, their representatives, elected officials, the media, department heads, and other interested persons.	5
March 23 and 24, 2009	4	Department of Building Inspection Statement of Incompatible Activities Training, Ethics Training for City Employees, and Statement of Economic Interests Training.	90
April 2, 16 and 21, 2009	3	Port of San Francisco Statement of Incompatible Activities Training and Ethics Training for City Employees	33
April 28, 2009	1	General Services Agency Statement of Incompatible Activities Training and Ethics Training for City Employees	28
April 28, 2009	1	Staff met with Elena Panfilova, Director of the Center for Anti-Corruption Research and Initiatives, Transparency International – Russia. Ms. Panfilova, an expert in anti-corruption in transitional economies who works to develop and encourage an engaged citizenry to promote the rule of law within Russia, is an Eisenhower Fellow traveling in the U.S. to visit with governmental agencies to learn about systems that have advanced anti-corruption efforts.	1
April 13, 2009	1	Board of Supervisors Statement of Incompatible Activities	35

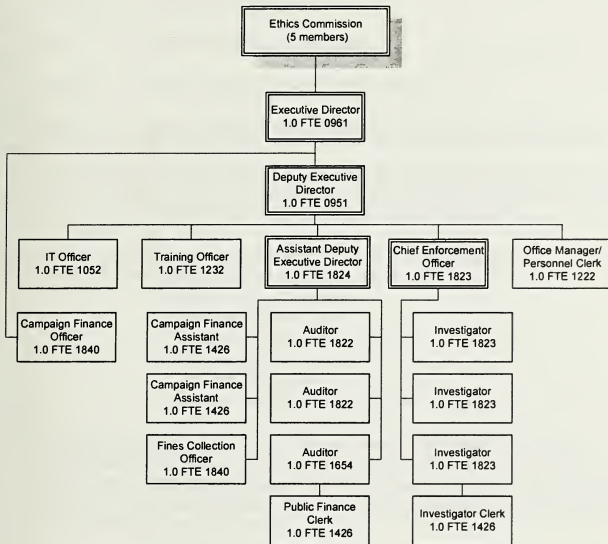
		Training and Ethics Training for City Employees	
June 22, 2009	1	Staff provided an SEI Training for the Civil Grand Jury.	15
June 29, 2009	1	Staff provided a Lobbyist Ordinance Training for lobbyists, their representatives, elected officials, the media, department heads, and other interested persons.	6
July 17 and 28, 2009	2	Staff held interested persons meetings on possible changes to the Campaign Finance Reform Ordinance. The Commission will consider the proposals at its August 10, 2009 meeting.	12
August 24, 2009	1	Staff met with a delegation of representatives from Shaanxi Province, People's Republic of China. The delegation sought to learn about promoting the highest standards of ethical behavior in government; new laws, rules and programs that will lead to ethics compliance; and ethics education and training.	NA
September 8, 2009	1	Staff conducted a Candidates' Training which covered filing requirements for potential candidates for the City elective offices of City Attorney and Treasurer. This training focused on campaign finance requirements that apply to candidates for all City elective offices, focused on required forms for candidates.	25
October 8, 2009	1	Staff met with a delegation from the Republic of Moldova, a landlocked Eastern European country located between the Ukraine and Romania. The group, sponsored by the Institute of International Education, was interested in obtaining information about local governments.	8
September 22, and 25, 2009	3	Staff conducted a Training for Treasurers of Non-Candidate Recipient Committees who were interested in fulfilling the training requirement under the Campaign Finance Reform Ordinance.	29
September 25, 2009	1	Staff conducted a Candidates' Training which covered filing requirements for potential candidates for the City elective offices of City Attorney and Treasurer.	8
Launched on September 28, 2009	1	WEB TRAINING: Training for Treasurers of Non-Candidate Recipient Committees	?
Launched on September 30, 2009	1	WEB TRAINING: Building Inspection Commission, Access Appeals Commission, Board of Examiners and Unreinforced Masonry Building Appeals Board SIA Training	?
Launched on October 7, 2009	1	WEB TRAINING: Ethics Training for City Employees	?
Total trainings:	83		Total in attendance: 2,223

**Trainings offered by the Ethics Commission
July 2008 to October 2009**

California Political Treasurers Association Meeting: 1
Candidates' Training: 6
DBI SIA Training (Web Training): 1
Delegates meetings: 10
Ethics Training for City Employees (Web Training): 1
Ethics Training for City Employees and Statement of Incompatible Activities Training for various City departments, boards, and/or commissions: 33
Interested persons meetings: 2
Lobbyist Ordinance: 2
San Francisco Economic Disclosure System Training: 11
Statement of Economic Interests Training: 9
Statement of Incompatible Activities and Public Records Training: 1
Training for Treasurers of Non-Candidate Committees (Web Training): 1
Training for Treasurers of Non-Candidate Recipient Committees: 5

San Francisco Ethics Commission

FY 08-09



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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

DIENNE S. STUDLEY
CHAIRPERSON

SAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: October 14, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

A handwritten signature in black ink, appearing to be "John St. Croix", is written over the "From:" line and extends into the "Re:" line.

Re: Policy Priorities Discussion at the October 19, 2009 Meeting

At its August 2008 meeting, the Commission discussed policy priorities for the coming year. The language below, taken from the draft annual report, outlines the result of those discussions and may be useful as a framework for Monday's discussion.

For this particular year, the Commission determined that the following were areas of priority for the Commission to consider and improve.

1. Education and Technology
2. Campaign Finance Laws
3. Communications with the Public
4. Enforcement
5. Conflicts of Interest
6. Lobbyist and Campaign Consultant Ordinances.

Education and Technology – The Commission made significant technological advancements including: on-line training and education classes; a new web site that better connects with the community; digitizing Commission filings and making records accessible on-line; and enhancements to on-line filing including making additional forms available in electronic format.

Campaign Finance Laws – the Commission implemented complex changes to the public financing laws related to individual expenditure ceilings this fiscal year. In addition, it approved amendments to modify the calculation governing when a publicly financed candidate may access additional public funds. After the election, the Commission began taking steps to propose substantive amendments to the CFRO. The Commission also recommended and adopted regulations to implement the voter-approved Proposition H to provide guidance on when elected officials are barred from soliciting or receiving contributions from contractors.

Communications with the Public – the Commission set aside a portion of its November 2008 meeting to discuss this subject and some positive feedback was received from the Department of Human Resources and the general public on the quality of Commission communications. The Commission also scheduled a first-time joint meeting with the



Sunshine Ordinance Task Force in April of 2009 which appears will result in changes in the methods the two bodies use to relate to each other.

Enforcement – after the Commission completed work on its first ever Hearing on the Merits, Commission staff worked closely with Commissioner Harriman to draft new and improved regulations related to the conduct of enforcement duties, particularly those governing procedures in probable cause hearings and hearings on the merit. The series of recommendations in these areas is currently pending before the Commission.

Conflicts of Interest – As noted earlier, the Commission completed its several-year review of Statements of Incompatible Activities, with the final SIAs for all departments, boards and commissions approved on September 8, 2008. On October 8, all the SIAs went into effect; Commission staff then worked with several departments to develop and present trainings on ethics and the SIAs. Such trainings remain ongoing. Earlier in the fiscal year, the Commission proposed and approved regulations that address various aspects of the SIAs relating to the advance written determination, handling of complaints of alleged violations of the SIAs and penalties for violations.



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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EXECUTIVE DIRECTOR'S REPORT TO THE SAN FRANCISCO ETHICS COMMISSION For the Meeting of October 19, 2009

1. Staff Changes:

As I mentioned at last month's meeting, the budget cutbacks mean that the Commission will be losing one of its permanent staff positions effective November 16, 2009. In addition, due to civil service bumping rules, two members of our staff will also lose their jobs on November 16. Combined with the changes in our enforcement and audit divisions, we will be working with several new staff in the coming months. Given that the work that the Commission is complex and myriad, the learning curve will be steep and it may take several months before our staff will be able to function as smoothly as we've become accustomed.

2. Investigation and enforcement program.

Since its last regular meeting on September 14, 2009, the Commission has received zero new complaints. There are currently 13 complaints pending in the Commission's jurisdiction.

Category	# of Complaints
Campaign Finance	5
Conflict of Interest	3
Governmental Ethics	2
Lobbyist Ordinance	1
Campaign Consultant Ordinance	0
Sunshine Ordinance	2
TOTAL	13

3. Campaign finance disclosure program.

a. Filing deadline. The next filing deadline is October 22, 2009 for the Second Pre-Election statement, which covers the reporting period beginning the day after the closing date of the last statement filed, or January 1, 2009 through October 17, 2009. Several candidates have already expressed an interest in running for office in November 2010. Staff has been conducting outreach for such potential candidates. Outreach to potential candidates includes contacting and setting up a one-on-one appointment with the candidate and/or his or her treasurer to discuss campaign finance processes and requirements. The purpose of this outreach is to inform first-time candidates and treasurers of their filing obligations prior to them engaging in campaign finance activity.

b. Collection of late filing fees and contribution forfeitures. Campaign finance collections as of October 14 for FY 09-10 totaled \$4,291, based on filings made during previous fiscal years and the current fiscal year. By comparison, campaign finance collections as of October 14 in prior fiscal years were as follows:

Fiscal year	Collections by Sept. 9	Total collections in FY
02-03	\$5,425	\$49,322
03-04	\$14,792	\$51,607
04-05	\$16,640	\$199,524
05-06	\$13,359	\$85,390
06-07	\$23,369	\$119,814
07-08	\$39,046	\$65,035
08-09	\$8,066	\$48,673

The \$4,291 amount is based on prior assessments as follows:

FY when assessed	Amount collected in 09-10
06-07	\$480.00
07-08	\$970.05
08-09	\$2,606.28
09-10	\$235
Total:	\$4,291.33

FY 08-09 waivers, as well as waivers from past years provided for comparison, are as follows:

FY when assessed	Amount assessed	Amount waived during FY
04-05	\$907,069	\$683,086
05-06	\$546,859	\$342,901
06-07	\$181,831	\$50,347
07-08	\$217,444	\$159,880
08-09	\$322,529	\$107,176
09-10	\$7,899	\$0

To date, the outstanding balance of late fees assessed from the current and previous years, including \$75,251 in fees that have been referred to the Bureau of Delinquent Revenues, is \$218,957, down from \$219,739 as last reported.

The current outstanding balance of contribution forfeitures assessed as a result of the defective reporting of contributor information and contribution limit violations is \$70,918, up from \$71,218 as last reported. The \$70,918 amount consists of forfeitures from the 2005-2006 filing periods and does not include forfeiture assessments from the 2008 filing period. Staff continues to process requests for waiver of late fees and forfeitures.

c. Status of accounts to San Francisco Bureau of Delinquent Revenues (BDR). The following chart provides details on pending accounts referred to BDR:

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
1	Committee to Elect Rebecca Silverberg	1220430	Lucia Paulazzo	5/6/05	\$21,086.00	\$21,086.00	\$21,086.00
2	Yick Tsun Society, Inc.	PEN1078	Florence Fang	8/16/05	\$7,550.00	\$7,550.00	\$7,550.00
3	SEIU Local 87	PEN951	Mike Garcia & Michael Baratz	8/25/05	\$14,350.00	\$14,350.00	\$14,350.00
5	Johnnie Carter for Community College Board	1226264	Johnnie Carter	6/16/06	\$9,520.00	\$6,595.00	\$6,595.00
7	Micheas Herman	PEN788	Micheas Herman	6/26/06	\$100.00	\$100.00	\$100.00
8	San Franciscans for Fair & Honest Government	1258209	Erik Howell	10/20/06	\$4,659.22	\$4,659.22	\$4,659.22
9	Myrna Viray Lim for District 11 Supervisor	1256697	Jia Jun Chen	4/27/07	\$3,855.00	\$3,855.00	\$3,855.00
10	Committee to Elect M. Valle for Treasurer	1278937	Manuel B. Valle	6/14/07	\$5,525.00	\$5,525.00	\$5,525.00
11	Shawn Westcott	PEN1102	Shawn Westcott	6/18/07	\$100.00	\$100.00	\$100.00
12	Committee to Elect Vilma Guinto-Peoro Supervisor District #2	1291394	Vilma Guinto-Peoro	6/18/07	\$10.00	\$10.00	\$10.00
13	Bill Barnes for District 5	1265969	Alix Rosenthal	1/3/08	\$3,120	\$3,110	\$3,110
14	Care Not Cash	1244505	Ronald Jin	2/29/08	\$5,331	\$5,331	\$5,331
15	Omar Khalif for Board of Educ.	1287030	Omar Khalif	7/30/09	\$1,800	\$1,800	\$1,800
16	Myrna Lim for District 11 Sup	1306882	Myrna Lim	7/30/09	\$1,180	\$1,180	\$1,180

d. Electronic filing. On April 30, 2009 staff provided 60 days' notice that committees subject to the electronic filing requirements under section 1.112(b) will be required to file FPPC Forms 461 (Independent Expenditure Committee and Major Donor Committee Campaign Statement) and 465 (Supplemental Independent Expenditure Report) in electronic format starting July 1, 2009. Electronically filed forms and data will be made available to the public on the Ethics Commission's web site. This new electronic filing requirement is in addition to the paper filing

requirement. Forms 461 and 465 were added to the San Francisco Electronic Disclosure System (SFEDS) through the Commission's contract with Netfile.

4. Revenues report.

For FY 09-10, the Commission is budgeted to generate \$50,000 in revenues. As of October 14, 2009, the Commission received \$12,406 as summarized below. The figure represents collection of approximately 25 percent of expected revenues for FY 09-10.

Revenues Received as of October 14, 2009

Source	Budgeted Amount FY 09-10	Receipts
Lobbyist Fees	\$8,000	\$1,537
Other Ethics General	\$1,000	\$34
Campaign Finance Fines	\$22,000	\$5,200
Campaign Consultant Fees	\$15,000	\$3,250
Lobbyist Fines	\$1,000	\$150
Statements of Economic Interests Fines	\$1,000	\$1,380
Other Ethics Fines	\$1,000	\$855
Campaign Consultant Fines	\$1,000	
Total	\$50,000	\$12,406

5. Public financing/Campaign finance audit program.

Staff is working on audits of candidates who received public financing in 2008. Staff has provided training to candidates and treasurers involved in the 2009 election.

6. Lobbyist program.

As of October 8, 2009, there are 39 lobbyists registered with the Commission. In the 2009-2010 fiscal year, \$1,537.50 in lobbyist fees and \$150 in fines were collected, for a total of \$1,687.50. Two lobbyists have a positive credit toward future fees due to overpayment. These credits total \$150. The next filing deadline is October 15, 2009, for the third quarter of 2009.

The next filing deadline for lobbyists on behalf of the City is November 15, 2009, for the third quarter 2009 reporting period.

7. Campaign Consultant program.

As of October 7, 2009, 25 campaign consultants are active and registered with the Commission. \$3,250 in registration fees have been collected in the 2009-2010 fiscal year.

The deadline for the third quarter 2009 report was September 15, 2009. All active campaign consultants filed quarterly reports; one consultant filed late. The next quarterly report is due

Tuesday, December 15, 2009. Staff will mail reminder notices to all active campaign consultants two weeks prior to the deadline.

8. Statements of Economic Interests.

April 1 was the deadline for designated officers and employees to file their annual Statement of Economic Interests (“SEIs”). Staff continues to process incoming SEIs and Sunshine Ordinance Declarations, by logging them into a database and scanning them for upload to the Commission’s website. A list of filers is viewable on the Commission’s website.

The following table reflects annual statements filed as of October 13, 2009.

FORM	FILERS	TOTAL # OF FILERS
Statement of Economic Interests (SEI)	601	621

On May 6, 2009, staff issued 136 non-filer notices. On June 8, 2009, staff issued 48 second non-filer notices to those who were unresponsive to the first notice. On July 8, 2009 staff issued third non-filer notices to 33 non-filers who were unresponsive to the past two notices. As of October 13, 2009, 92 non-filers informed the Commission that they left office, 27 non-filers filed their annual SEIs, five stated that they hold a position that is not required to file with the Commission, one stated that the Annual SEI requirement does not apply to because the filer recently assumed office, and 11 non-filers remain nonresponsive.

Enforcement staff continues to audit departments for SEI filing compliance for both 2007 and 2008 calendar years. Staff is also reviewing all SEIs filed with the Commission.

9. Outreach and Education.

On Thursday, October 8, 2009, staff met with a delegation from the Republic of Moldova, a landlocked Eastern European country located between the Ukraine and Romania. The group, sponsored by the Institute of International Education, was interested in obtaining information about local governments.

On Tuesday, September 22, and Friday, September 25, 2009, staff conducted a Training for Treasurers of Non-Candidate Recipient Committees who were interested in fulfilling the training requirement under the Campaign Finance Reform Ordinance. The Training for Treasurers of Non-Candidate Recipient Committees covers campaign finance requirements for treasurers and representatives of general purpose committees, ballot measure committees, and primarily formed candidate committees. The training fulfills a requirement that new and existing treasurers—and assistant treasurers who sign and verify campaign statements—attend a training conducted by the Ethics Commission after filing an original or amended Statement of Organization designating a new treasurer. (See S.F. Campaign and Governmental Conduct § 1.107.)

On Friday, September 25, 2009, staff conducted a Candidates’ Training which covered filing requirements for potential candidates for the City elective offices of City Attorney and Treasurer. This training focused on campaign finance requirements that apply to candidates for all City elective offices, focused on required forms for candidates.

The September 28, 2009 Lobbyist Ordinance Training was cancelled due to lack of interest. Another Lobbyist Ordinance Training will be offered in December 2009.

Ethics staff continues to offer trainings on conflict of interest laws and the Statements of Incompatible Activities (SIA) to City departments.

In addition to in person trainings, the staff has produced and posted the various web trainings on the Ethics Commission website under "Education." The following are trainings that are currently available on the website:

- Training for Treasurers of Non-Candidate Recipient Committees
- Building Inspection Commission, Access Appeals Commission, Board of Examiners and Unreinforced Masonry Building Appeals Board SIA Training
- Ethics Training for City Employees

Respectfully submitted,



John St. Croix
Executive Director

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**San Francisco
Ethics Commission**



25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

Date: October 8, 2009

Re: Notice of Consideration of Proposed Regulations

At its special meeting on Monday, October 19, 2009 at 6:30 p.m. in Room 408 City Hall, the San Francisco Ethics Commission will consider possible amendments to its Regulations for Investigations and Enforcement Proceedings. These amendments will address issues that could include but are not limited to identifying the laws that the Commission enforces, allowing amendments to probable cause determinations, requiring the Executive Director to notify the Commission and respondents of exculpatory information, addressing the confidentiality of complaints alleging violations of the Sunshine Ordinance, and clarifying the process and procedures related to a hearing on the merits. The proposed amendments, along with a staff report, will be available from the Commission office and on its website when the agenda for the meeting is available on Thursday, October 15, 2009.

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Minutes of the Special Meeting of
The San Francisco Ethics Commission
October 10, 2009
Room 408, City Hall

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I. Call to order and roll call.

Chairperson Studley called the meeting to order at 6:34 p.m.

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COMMISSION MEMBERS PRESENT: Jamienne Studley, Chairperson; Susan Harriman, Vice-Chairperson; Emi Gusukuma, Commissioner; Eileen Hansen, Commissioner; Charles Ward, Commissioner.

STAFF PRESENT: John St. Croix, Executive Director; Mabel Ng, Deputy Executive Director; Richard Mo, Chief Enforcement Officer; Garrett Chatfield, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Jon Givner, Deputy City Attorney.

OTHERS PRESENT: Cassandra Costello (Legislative Aide to Supervisor Mar), Dan Boreen, David Pilpel, Richard Knee, Charlie Marsteller, and other unidentified members of the public.

MATERIALS DISTRIBUTED:

- Memorandum from Executive Director to Ethics Commission re: Proposed Changes to Investigations and Enforcement Regulations, October 13, 2009
- Legislative Digest, Prohibiting members of City boards and commission from obtaining City employment
- Draft Regulations for Investigations and Enforcement Proceedings
- Memorandum from Executive Director to Ethics Commission re: Regulations regarding Ethics Commission enforcement of the Sunshine Ordinance, October 13, 2009
- Memorandum from Executive Director to Ethics Commission re: Policy Priorities Discussion at the October 19, 2009 Meeting, October 14, 2009
- Draft Minutes of the September 14, 2009 Regular Meeting
- Executive Director's Report to the Ethics Commission for the Meeting of October 19, 2009
- Annual Report of the San Francisco Ethics Commission, July 1, 2008 – June 30, 2009

II. Public comment on matters appearing or not appearing on the agenda that is within the jurisdiction of the Ethics Commission

David Pilpel stated that Campaign and Governmental Conduct Code, section 3.222, appears to treat contracts and grants from non-profit and for-profit entities differently.

III. Consideration of legislation to amend Chapter 2 of Article III of the Campaign and Governmental Conduct Code to ban members of City boards and commissions from obtaining employment with the City during their tenure and

for one year after the termination of their City service.

Cassandra Costello summarized Supervisor Mar's proposed legislation and the reason for its introduction, which is to close loopholes that may allow the use of a position on a board or commission to secure City employment.

Commissioner Harriman stated that restrictions and rules are already in place to prohibit a board member or commissioner from using his or her position to secure City employment, and this would discourage those who volunteer to serve the City by banning them from employment opportunities.

Commissioner Ward stated that Supervisor Mar could frame the legislation more narrowly to prohibit employment with just the department for which the person served on a commission or board.

Ms. Costello responded that commissions can take up items that reflect the City in its entirety. She also responded to Chairperson Studley that Supervisor Mar proposed a one year ban to be consistent with other employment restrictions.

Commissioner Gusukuma stated that California has a strong public policy against employment restrictions. She also stated that some commissions have very little influence so a waiver provision should be considered as part of the legislation.

Ms. Costello stated that the legislation was proposed to close a potential loophole and was not in response to any specific situation. She also responded to Commissioner Gusukuma that Supervisor Mar had not considered a waiver process with this legislation.

Commissioner Hansen stated that she supported the legislation and she appreciated the effort by Supervisor Mar to close this loophole.

Deputy Executive Director Mabel Ng stated in response to Chairperson Studley's question that around 500 commissioners or board members would be affected by this legislation.

Deputy City Attorney Jon Givner stated that the law currently prohibits exchanging anything of value for employment with the City and would likely cover commissioners and board members.

Public Comment

David Pilpel stated that this legislation might preclude the City securing the services of someone who is most qualified for a position, as often commissioners serve because of their expertise in a given area.

Charlie Marsteller stated that Supervisor Mar should consider the concerns stated by the Commissioners at this meeting.

Deputy City Attorney Givner responded to Chairperson Studley by stating that this ban would only apply to employment, and would not apply to individuals contracting with the City.

IV. Closed session

Motion 09-10-19-1 (Harriman/Gusukuma) Moved, seconded and passed (5-0) that the Commission go into closed session.

Commission went into closed session at 7:05 p.m.

Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9 (a) and (c) and Sunshine Ordinance section 67.10(d) to discuss anticipated litigation as plaintiff and existing litigation as defendant.

- (a) Conference with Legal Counsel: Anticipated litigation as plaintiff**

Number of possible cases: 1

- (b) Conference with Legal Counsel: Existing litigation as defendant**

Number of cases: 2

Myrna Lim v. City and County of San Francisco Ethics Commission et al., Case No. 08-472073 (S.F. Superior Court)

Allen Grossman v. San Francisco Ethics Commission et al., Case No. 09-509868 (S.F. Superior Court)

V. Discussion and vote regarding closed session action and deliberations.

Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose any action taken or discussions held in closed session regarding anticipated and existing litigation.

Motion 09-10-19-2 (Harriman/Gusukuma) Moved, seconded and passed (5-0) that the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: anticipated litigation and existing litigation.

The Commission went back into open session at 7:47 p.m.

VI. Consideration of possible amendments to the Commission's Regulations for Investigations and Enforcement Proceedings ("Regulations")

Richard Mo summarized the proposed changes to the Regulations.

Decision Point 1

Public Comment

Richard Knee stated that the Sunshine Ordinance Task Force should have the opportunity to comment on proposed changes. Executive Director St. Croix responded that regulations regarding the Sunshine Ordinance are being separated from the regulations for investigations and that the Sunshine Ordinance Task Force members received a memorandum for their comments on Sunshine Ordinance regulations.

David Pilpel stated that there are other means of delivery than those outlined in these changes.

Motion 09-10-19-3 (Gusukuma/Harriman) Moved, seconded and passed (5-0) to adopt the proposed changes in decision point 1.

Decision Point 2

Commissioner Ward stated that the regulations, as proposed, appear to leave it to staff's discretion whether or not a respondent in a complaint is interviewed.

Executive Director St. Croix stated that during the preliminary review process, staff evaluates whether or not an allegation falls within the Commission's jurisdiction.

Commissioner Ward stated that the proposed basis for dismissal of "evidence does not support the allegations" seems to require some work to determine if the facts are sufficient to show a violation occurred.

Commissioner Harriman stated that there can be times when the evidence presented is unrelated to any violation the Commission has jurisdiction over. She stated that staff should be given some latitude during the preliminary review.

Commissioner Hansen stated that the language as proposed is too vague.

Public Comment

Charlie Marsteller stated that the regulations should be clearer to the general public.

David Pilpel stated that staff should inform a complainant that if further evidence is discovered then a matter could be re-opened.

Dan Boreen stated that he understands the need for some discretion during the preliminary review; however, he does not trust the current Executive Director's discretion regarding complaints.

Chairperson Studley stated that this decision point should be reviewed further and no action would be taken at this meeting.

Decision Point 3

Motion 09-10-19-4 (Gusukuma/Harriman) Moved, seconded and passed (5-0) to adopt the proposed changes in decision point 3.

Public Comment

None

Decision Point 4

Commissioner Hansen stated that she wanted to ensure that the proposed changes will be discussed with the Sunshine Ordinance Task Force. She also stated that she wanted to be clear on how the Commission will handle Task Force referred complaints.

Public Comment

Richard Knee stated that the Sunshine Ordinance Task Force has already made a determination when a complaint is referred to the Ethics Commission, and that the Commission can only enforce their determination.

David Pilpel stated that all of the proposed changes that affect the Sunshine Ordinance should be put aside for now until the Commission and Task Force meet again.

Dan Boreen stated that there should not be any distinction between Sunshine complaints that were referred to the Commission from the Task Force and those initiated by the Commission. He stated that all Sunshine matters are public and there should be no confidentiality afforded to any investigation of Sunshine complaints.

Charlie Marsteller discussed an investigation conducted by the Human Rights Commission.

Commissioner Gusukuma stated that she is concerned about releasing investigative notes while a complaint is being investigated.

Deputy City Attorney Givner responded to Commissioner Gusukuma's question regarding the definition of "handled" that appears in the Sunshine Ordinance regarding referrals to the Commission. He stated that there is no definition in the Ordinance as to what "handled" means, nor are other terms defined in the Ordinance regarding referrals to the Commission, so the Commission can adopt regulations to define those terms.

Motion 09-10-19-5 (Gusukuma/Harriman) Moved, seconded and passed (4-1, Hansen dissenting) to adopt decision point 4 with the amended language: "referred to the Ethics

Commission by the Sunshine Ordinance Task Force” in section 8(a)(2), and in section 13(b)(3).

Decision Point 13

Commissioner Hansen stated that there has not been enough discussion with the Sunshine Ordinance Task Force to move on decision points 4 and 13.

Public Comment

David Pilpel stated that the language of “by a quorum” is not needed.

Charlie Marsteller stated that the Commission may review these changes after it meets with the Task Force.

Dan Boreen stated that there should be no difference in the way Sunshine complaints are handled whether referred by the Task Force or initiated at the Ethics Commission.

Motion 09-10-19-5 (Harriman/Gusukuma) Moved, seconded and passed (4-1, Hansen dissenting) to adopt decision point 13 with the striking of the language “by a quorum of.”

The Commission took a break at 8:55 p.m. and resumed at 9:01 p.m.

Decision Points 5-12, and 14

Public Comment

David Pilpel asked how excluding a witness from a hearing until he or she testifies comports with the policy of open meetings. Commissioner Harriman responded that it is equivalent to excluding a witness in court, which is also open to the public.

Dan Boreen asked how decision point 6 is a change to the current regulations. Commissioner Harriman responded that it clarifies the burden of proof required at a hearing on the merits.

Executive Director St. Croix stated that any proposed change not specifically addressed in a decision point has not been adopted at this meeting.

Motion 09-10-19-6 (Gusukuma/Harriman) Moved, seconded and passed (5-0) to adopt the changes as proposed in decision points 5-12, and 14.

VII. Consideration of the Annual report for Fiscal Year 2008-2009

Chairperson Studley stated that the introductory paragraph should be more comprehensive.

Commissioner Hansen stated that more metrics should be in the report in order to see the progress the Commission has made and that it should contain more specificity as to the items addressed each year by the Commission. She also stated that she interprets the Charter as requiring the Commission to submit an annual report to the Mayor and Board of Supervisors. She also stated that she is concerned that the report is the same every year and no changes are made after this review process.

Executive Director St. Croix stated that producing the annual report requires about 40-50 staff hours in response to Commissioner Ward. He also stated that the annual report is supposed to be a snapshot of the year.

Public Comment

Dan Boreen stated that there is no information regarding whistleblowers.

Motion 09-10-19-7 (Harriman/Ward) Moved, seconded and passed (4-1, Hansen dissenting) that the Commission adopt the annual report, subject to grammatical changes to be made by the Chairperson and Executive Director.

VIII. Policy Priorities

Commissioner Studley stated that this should be a general discussion about what is working and what should be improved.

Commissioner Harriman stated that education should always be the number one priority.

Executive Director St. Croix outlined the methods in which staff pursues each of the Commission's stated priorities.

Commissioner Hansen stated that she would like the Commission to schedule an annual retreat. Commissioner Harriman agreed that the annual retreat is important.

Commissioner Hansen stated that the Commission should not limit itself to previously stated priorities and think about new priorities each year.

Public Comment

David Pilpel stated that the Commission should outline what resources are needed to address each priority during the budget process.

IX. Minutes of the Commission's regular meeting of September 14, 2009

The Commission agreed to move this item to the next regular meeting.

X. Executive Director's Report

The Commission agreed to move this item to the next regular meeting.

XI. Items for Future Meetings

The Commission agreed to move this item to the next regular meeting.

XII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission

None.

XIII. Adjournment

Motion 09-08-10-8 (Harriman/Gusukuma) Moved, seconded and passed (5-0) that the Ethics Commission adjourn.

The meeting was adjourned at 10:04 p.m.

Respectfully submitted,

Garrett Chatfield
Investigator/ Legal Analyst

Ethics Commission



25 Van Ness Ave., Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

**SAN FRANCISCO ETHICS COMMISSION
NOTICE OF REGULAR MEETING**

November 9, 2009 5:30 P.M.

and AGENDA

Room 408 City Hall

1 Dr. Carlton B. Goodlett Place, San Francisco

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- I. **Call to order and roll call.**
- II. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**
- III. **Consideration of possible amendments to the Commission's Regulations for Investigations and Enforcement Proceedings ("Regulations").** At its May and October 2009 meetings, the Commission considered several staff-recommended substantive and technical amendments to the Regulations. These include but not limited to identifying the laws that the Commission enforces, allowing amendments to probable cause determinations, requiring the Executive Director to notify the Commission and respondents of exculpatory information, and clarifying the process and procedures related to a hearing on the merits. At its last meeting, the Commission approved several amendments to the Regulations; at this meeting, the Commission will consider technical and possibly other recommendations. The draft amendments and a staff report will be available at the Commission office as well as on the Commission website. (Discussion and possible action.)
- IV. **Policy Priorities.** At its last meeting, the Commission began to discuss progress in the areas of its identified policy priorities that were approved on August 8, 2008. These priorities include: 1) Education and Technology, 2) Campaign Finance Laws, 3) Communications with the Public, 4) Enforcement, 5) Conflicts of Interest, 6) Lobbyist and Campaign Consultant Ordinances. The Commission will continue its discussion on priorities for future work in these areas and possibly auditing, public finance, and budgeting. This discussion is in lieu of an annual retreat. There will be an opportunity for public comment. (Discussion and possible action.)
- V. **Minutes of the Commission's regular meeting of September 14, 2009 and special meeting of October 19, 2009.** (Discussion and possible action.)
- VI. **Executive Director's Report.** An update of important Ethics Commission staff activities since the previous monthly meeting. (Discussion.)

- VII. Items for future meetings. Commissioners may propose items for future agendas and the Commission may determine the priority of these items. (Discussion.)
- VIII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.
- IX. Adjournment.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sutfa@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>.

If any materials related to an item on this agenda have been distributed to the Ethics Commission after distribution of the agenda packet, those materials are available for public inspection at the Ethics Commission, 25 Van Ness Avenue, Suite 220, San Francisco, during normal office hours.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing devices.

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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: November 5, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

By: Richard Mo, Chief Enforcement Officer

Re: Proposed Amendments to Investigations and Enforcement

A handwritten signature in black ink, likely belonging to Richard Mo, is written over the "By:" line and extends into the "Re:" line.

Background

At its October 19, 2009 meeting, the Commission continued its possible amendments to its Regulations for Investigations and Enforcement Proceedings ("Regulations"). Staff presented the Commission with 14 decision and the Commission approved 13 of the 14 decision points. The Commission did approve or reject Decision Point 2.

Attached for your reference is a copy of the proposed Regulations, with the changes already approved by the Commission in regular font and staff's proposals in underlined or strike-through font. The Regulations include proposed changes reflecting Decision Point 2, new Decision Points 15-25, and a technical and clean-up amendments. References to page numbers in this are to the draft Regulations.

This memorandum contains four parts:

- 1) Decision Point 2 (recast as Decision Points 2A, 2B, 2C, and 2D), regarding the preliminary review process and the Executive authority to dismiss a complaint;
- 2) Clarification of actions taken at the October 19 meeting regarding complaints alleging violation of the Sunshine Ordinance.
- 3) List/guide of the remaining proposed changes, most of which are technical and/or clean-up language. Staff has included ten new Decision Points regarding proposed changes that are a bit more technical, which the Commission may wish to consider.

I. The Preliminary Review Process and the Executive Director's Dismissal of Complaints (Section IV.A.-B., pages 4-5)

At its October 19 meeting, the Commission discussed but did not vote on Decision Point 2. The Commission's discussion focused on two areas: 1) whether the Regulations should mandate that during the course of a preliminary investigation, the Executive Director must communicate with the respondent; and 2) whether the Executive Director should have the power to dismiss a complaint during the preliminary review stage when "the evidence does not support the allegations."

Preliminary Review

Proposed Section IV.A. ("Preliminary Review") expands on language in the current Regulations that "The Executive Director shall review and process all complaints initiated by the Commission and individual Commissioners." The proposed addition explains that the Executive Director's preliminary review may include document review, communication with the complainant or respondent, and other initial inquiries. As discussed during the Commission meeting, the activities described in Section IV.A. are not intended to be an exhaustive or comprehensive list of what the Executive Director must do for every single complaint. Instead, the proposed regulation sets forth the general parameters for conducting a preliminary investigation.

Because complaints received by the Commission cover a wide range of allegations, it is impractical to mandate a particular set of actions that enforcement staff must take for every single preliminary investigation. For example, as mentioned at the last meeting, if the complaint alleges that a City officer did not file a Form 700, staff can discern the validity of the allegations simply by viewing filed Form 700s.

Please note that the Regulations require the Executive Director to provide a monthly summary of each complaint dismissed (see paragraph 3 on page 5), so the Commission can monitor enforcement staff's handling of all complaints and the Executive Director's use of his authority at this preliminary stage.

Decision Point 2A: Shall the Commission approve section IV.A. as drafted on page 4?
--

Reasons for Dismissing a Complaint at the Preliminary Investigation Stage

Proposed Section IV.B. sets forth the reasons that the Executive Director may dismiss a complaint after the preliminary investigation.

At the October 19 meeting, staff proposed that the Executive Director should be permitted to dismiss a complaint when "the evidence does not support the allegations" in the complaint. Granting the Executive Director this discretion will allow staff to dismiss plainly meritless complaints without expending the resources involved with requesting dismissal from the Commission. Although the Commissioners did not express concerns about the thrust of the proposal at the October 19 meeting, Commissioners debated how it should be phrased. Based on

the Commission's discussion during its last meeting, staff presents the following four options to replace or insert in Section IV.B.1.:

- a) Credible evidence does not support the allegations.
- b) Credible evidence refutes the allegations.
- c) Credible evidence clearly refutes the allegations.
- d) The evidence does not support the allegations. (This was staff's original recommendation.)

Decision Point 2B: Shall the Commission adopt option a, b, c, or d as the criterion under section IV.B.1. on page 4?

The remaining subsections IV.B.2, 3, and 4 are unchanged from staff's recommendations as set forth in the October memo and draft Regulations. Thus, under the proposed Regulations, the Executive Director may dismiss a complaint at the preliminary review stage because in addition to subsection No. 1 (to be approved under Decision Point 2B), when "2. The allegations, if true, do not constitute a violation of law within the Commission's jurisdiction"; or "3. The complaint contains an expression of opinions, rather than specific allegations"; or "4. The allegations contained in the complaint are already under investigation, or already have been resolved, by the Commission or another law enforcement agency."

Decision Point 2C: Shall the Commission adopt subsections 2, 3, and 4 of section IV.B. as set forth on pages 4-5?

Section IV.C. sets forth the procedure that applies if the Executive Director does not dismiss a complaint after preliminary review – because he or she determines that there is reason to believe a violation of law under the Commission's jurisdiction may have occurred. Under San Francisco Charter Section C3.699-13(a), the Executive Director must forward the complaint to the District Attorney and City Attorney. If neither the District Attorney nor the District Attorney intends to pursue an investigation, within 14 days of such notification, the Executive Director must inform the complainant in writing of the action, if any that he or she has taken or plans to take on the complaint, together with the reasons for such action or non-action. The proposed language in section IV.C simply restates those Charter requirements. Staff recommends including the language in the Regulations to provide clarity for respondents, complainants and members of the public.

Decision Point 2D: Shall the Commission approve the additional language of the last paragraph in Section IV.C. as set forth on page 5?

II. Complaints Alleging Violation of the Sunshine Ordinance

At its October 19 meeting, the Commission approved amendments making enforcement matters regarding alleged willful violations of the Sunshine Ordinance public. The language approved by the Commission applied only to complaints “referred to the Ethics Commission by the Sunshine Ordinance Task Force.” This language was inserted in three places in the Regulations: 1) Section VIII.A.2.: the first sentence of the paragraph (page 8); 2) Section VIII.A.2.: the second sentence of the paragraph (page 8); and 3) Section XIII.B.3. (page 18): the first sentence of the paragraph.

However, upon further reconsideration, staff believes that *all* complaints alleging a violation of the Sunshine Ordinance, whether filed by a complainant directly with the Commission or originally filed with the SOTF and then referred by the SOTF to the Commission, should be treated the same. To advance the goal of transparency, staff recommends that the Commission strike the language “referred to the Ethics Commission by the Sunshine Ordinance Task Force”

Decision Point 15: Shall the Commission approve striking “referred to the Ethics Commission by the Sunshine Ordinance Task Force” in Section VIII.A.2 and Section XIII.B.3, as set forth on pages 8 and 18?

III. Technical and Clean-up Proposals

The proposed Regulations circulated to the Commission in advance of the October 19 meeting included a number of technical, non-substantive proposals. Staff’s October 13, 2009 memorandum to the Commission did not specifically address all of the non-substantive proposals, as these were all technical and clean-up items, intended either to clarify, conform or simplify existing language. Per the Commission’s request, the following is a summary, by section, of all such non-substantive proposals. In summarizing these proposals, staff noted that some are more than mere technical; thus, staff has identified them as decision points for the Commission to consider. All of these proposals are included in the attached redline of the Regulations. Deletions are indicated by ~~strike through~~ and additions are indicated by underline.

Section I – Preamble (page 1)

* The Regulations apply only to enforcement of laws identified in Section II.N. on page 2. This proposed technical edit clarifies that the Regulations apply to enforcement of laws within the Commission’s jurisdiction.

Section II – Definitions (pages 1-3)

* “Business day”: added to clarify calculation of deadlines and eliminate any confusion with “working day.” Throughout the document, we have replaced the term “working day” with “business day.”

* Deletion of “City laws”: incorporated in Section II.N. under “Violation of law.”

- * “Probable cause”: Conforming language.
- * “Respondent”: Conforming language.
- * Deletion of “State laws”: incorporated in Section II.N. under “Violation of law.”
- * “Violation of law”: identifies laws over which the Commission has jurisdiction.

Section III – Complaints (pages 3-4)

* Subsection III.A.2.: Clarifies that formal complaints (submitted on the Commission’s official complaint form) may be filed anonymously. Current Regulations are silent as to anonymous complaints and the Executive Director is not required to review anonymous complaints. Under current practice, the Executive Director does review and process anonymous complaints. This amendment will require the Executive Director to review all anonymous formal complaints.

Decision Point 16: Shall the Commission adopt Section III.A.2., as set forth on page 3?

* Subsection III.C.: Clarifies that the Executive Director, but not the Commission or individual Commissioners, may initiate complaints, reflecting the Commissioner’s role as adjudicators rather than prosecutors.

Decision Point 17: Shall the Commission adopt Section III.C., as set forth on page 4?

- * All other changes in this section are clean-up and clarification.

Section IV – Review of Complaints (page 4-5)

- * Subsection C: These changes are discussed above in Decision Points 2A through 2D.

Section V – Conduct of Investigation (pages 5-6)

- * Subsection A: Conforms with recent Commission practice.
- * All other changes in this section are clean-up language.

Section VI – Determination That There is Not Probable Cause (page 6)

- * Subsections B & C: Replaces “probable cause to believe” with “reason to believe.” Clarifies that the Commission should not be making a finding of probable cause when there has not yet been a probable cause hearing.
- * All other changes in this section are clean-up language.

Section VII – Recommendation That There Is Probable Cause (pages 7-8)

- * New Subsection C: Specifies that the parties may agree to deliver response to the probable cause report via email.
- * Old Subsection C: Paragraph moved to new Section VIII.A.1.
- * All other changes in this section are clean-up language.

Section VIII – Probable Cause Hearing (pages 8-19)

- * Subsection VIII.A.3.: The proposed changes allow the Commission to decide to use the formal rules of evidence for probable cause hearings.
- * Subsection VIII.B.3.: Deletes “or its staff” which clarifies current practice that the Commission issues formal opinions.
- * All other changes in this section are clean-up and clarification language.

Section IX – Issuance of Accusation (pages 10-11)

- * Subsection IX.A. contains the additional language: “The accusation shall list only those charges for which the Commission made a determination of probable cause.” In situations where the Commission makes a determination of probable cause for some, but not all, of the allegations listed in a probable report and presented by staff at a probable cause hearing, this language helps to eliminate any potential confusion regarding the exact charges that a respondent is facing at the hearing on the merits stage.

Decision Point 18: Shall the Commission adopt Section IX.A., as set forth on page 10?

- * Subsection IX.B.1.: Addition of “commencement” reflects the fact that the hearing on the merits may occur over several meetings.
- * All other changes in this section are clean-up and clarification language.

Section X – Discovery; Hearing Briefs; Preliminary Matters (page 11-13)

- * Section X.C. on page 13 requires the parties to list anticipated witnesses and adds that “The brief is not required to list anticipated rebuttal evidence or rebuttal witnesses.” This additional language specifies the required information for each party’s hearing brief, which conforms with the Commission’s practice at its most recent hearing on the merits. The changes also specify that unless the Commission or outside hearing officer agrees to accept briefs by email, six copies of the brief are required.

Decision Point 19: Shall the Commission adopt Section X.C., as set forth on page 13?

* All changes are clarification and clean-up language.

Section XI – Discovery of Exculpatory Information (page 14)

* Addition of “immediately” in Section XI.D. This proposal preserves respondent’s due process rights by requiring the Executive Director to give the respondent timely notice of the Executive Director’s decision not to proceed with a particular allegation, after a finding of probable cause has already been made.

Decision Point 20: Shall the Commission adopt Section XI.D., as set forth on page 14?

Section XII – Hearing on the Merits (pages 15-17)

* Subsections A.4.-5., “Exhibits” and “Witnesses”: clarifies procedures; based on the Commission’s practice at its recent hearing.

Decision Point 21: Shall the Commission adopt Sections XII.A.4 & 5, as set forth on page 15?

* Section XII.C.1.(c): These changes clarify that the underlying law violated dictates amount of penalty as a general rule, and sets default penalties if the law is silent.

Decision Point 22: Shall the Commission adopt Section XII.C.1.(c), as set forth on page 16?

* Deadline for paying administrative penalty under Section XII.C.3.: These changes require a respondent to pay any penalty within 90 days. Current Regulations are silent on this issue.

Decision Point 23: Shall the Commission adopt Section XII.C.3., as set forth on page 17?

* All changes are clean-up and clarification language.

Section XIII – Miscellaneous Provisions (pages 17-22)

* Subsection M – “Conclusion of Hearing on the Merits”: On page 22, this change clarifies when a hearing on the merits concludes. Current Regulations are silent on this issue.

Decision Point 24.: Shall the Commission adopt Section XIII.M., as set forth on page 22?

* All other changes are clean-up and clarification language.

Section XIV- Stipulated Orders (pages 22-23)

* All changes technical.

Decision Point 25: Unless otherwise decided, shall the Commission approve the proposed technical, clean-up and clarifying proposals discussed in this memorandum as set forth in the draft regulations?

IV. Summary of Amendments Approved By Commission and Forwarded to the Board of Supervisors

The following is a summary of the thirteen decision points approved by the Commission at its October 19 meeting. Staff forwarded these changes to the Board of Supervisors on October 20 and these amendments become effective December 18, 2009.

1. Definition of "Delivery"

- * Conforms use of "delivery" throughout the Regulations.
- * Streamlines actual delivery process and reduces financial cost incurred by staff.

3. Deadline for Responses to Probable Cause Reports

- * Provides respondent additional notice of hearing and additional time to prepare response.

4. Probable Cause Hearings for Sunshine Ordinance Violations

- * Maintains transparency of complaints referred to Commission by the SOTF.

5. Eliminate Live Witness Testimony at Probable Cause Hearing

- * Expedites hearing process and preserves respondent's right to appear and have counsel.

6. Standards of Proof for Probable Cause Hearing ("PCH") and Hearing on the Merits ("HOTM")

- * Uses conforming language for both standards.
- * Provides objective basis for making determination at both stages.
- * Clarifies that HOTM has higher threshold of proof than PCH.

7. Probable Cause Procedures

- * Deletes unnecessary and confusing reference to outside hearing officer at PCH.

8. Amendments to Probable Cause Determinations

- * Provides for situations where staff discovers additional allegations during investigation.

9. Designating Accusation as Official Charging Document

- * Clarifies exact charges that the respondent is facing.

- * Provides timely notice for respondent.

10. Resolution of Procedural Matters for Hearing on the Merits

- * Broadens and clarifies process of resolution of preliminary and procedural matters.

11. Exculpatory Information

- * Allows staff to dismiss charges that it does not intend to pursue.

12. Exclusion of Witnesses During Hearing on the Merits

- * Conforms with current court practice and recent Commission practice.

13. Access to Complaints and Related Documents and Deliberations

- * Provides clarity on Charter's confidentiality rules for Ethics investigations.
- * Distinguishes complaints referred to the Commission by the SOTF.

14. Changing Statute of Limitations from Five Years to Four Years

- * Conforms with statute of limitations for conflict of interest, lobbying and campaign consultant laws.

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DRAFT

ETHICS COMMISSION
REGULATIONS FOR INVESTIGATIONS
AND ENFORCEMENT PROCEEDINGS

Effective Date: July 5, 1997

Includes technical amendments effective April 13, 2002;

Streamlined Process for Complaints Alleging a Failure to File Campaign Finance Disclosure Reports effective August 15, 2004; amendments effective October 10, 2005; amendments effective March 10, 2006; and amendments effective November 10, 2006; and amendments effective December 18, 2009; and amendments effective January 8, 2010

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I. PREAMBLE

These Regulations of the San Francisco Ethics Commission are promulgated in order to ensure the fair, just, and timely resolution of complaints presented to the Commission that allege violations of State and City laws within the Commission's jurisdiction relating to campaign finance, lobbying, campaign consulting, campaign consulting, conflicts of interest and governmental ethics by:

1. Setting and maintaining objective standards for the investigation and prosecution of matters brought before the Commission;
2. Eliminating any political or improper influence in the investigation and prosecution of persons accused of ethics violations;
3. Protecting the privacy rights of those accused of ethics violations by maintaining the confidentiality of complaints filed with, and investigations conducted by, the Commission;
4. Setting and enforcing reasonable time limits within which enforcement proceedings should be completed;
5. Coordinating and sharing with other governmental agencies the responsibility for investigations and prosecutions of complaints, whenever consistent with the interests of justice;
6. Delegating to the Commission staff maximum discretion in the handling and resolution of complaints at staff level, while retaining oversight of those staff activities.

II. DEFINITIONS

For purposes of these Regulations, the following definitions shall apply:

- A. "Business day" means any day other than a Saturday, Sunday or City holiday.
- ~~A. B. "City" means the City and County of San Francisco~~
- ~~B. "City laws relating to campaign finance, lobbying, campaign consulting, conflicts of interest, and governmental ethics" include, but are not limited to: San Francisco Charter section 15.100 et seq. and Appendix C (ethics), and the San Francisco Campaign and Governmental Conduct Code.~~
- C. "Commission" means the Ethics Commission.
- D. "Complainant" means a person or entity that makes a complaint.

E. "Day" means calendar day unless otherwise specifically indicated. If a deadline falls on a weekend or City holiday, the deadline shall be extended to the next working day.

F. "Deliver" means transmit by U.S. mail or personal delivery to a person or entity or to an agent authorized to accept delivery on behalf of the person or entity. For purposes of these Regulations, delivery may be made by leaving copies of the material with a responsible person at either the residence or place of business of the person or entity to whom the material is directed. The Commission, the Executive Director or a respondent receiving material may consent to any other means of delivery, including delivery by e-mail or fax. In any proceeding, following a determination of probable cause, the Commission Chair or designated Commissioner or hearing officer may order that delivery of briefs or other materials be accomplished by e-mail.

G. "Enforcement action" means an action pursuant to San Francisco Charter section C3.699-13.

H. "Exculpatory information" means information tending to show that the respondent is not guilty of the alleged violations.

I. "Executive Director" means the Executive Director of the Ethics Commission or the Executive Director's designee.

J. "Mitigating information" means information tending to excuse or reduce the significance of the respondent's conduct.

K. "Probable cause" means that based on the evidence presented there is reason to believe that the respondent committed a violation of City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics.

L. "Respondent" means a person or entity that is alleged in a complaint to have committed a violation of violated State or City laws relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics.

M. "State laws relating to campaign finance, conflicts of interest, and governmental ethics" include, but are not limited to the Political Reform Act of 1974, Government Code section 81000 et seq., Government Code section 1090, and Government Code section 3201 et seq.

N. M. "Stipulated order" means an order regarding a complaint the terms of which have been agreed to by both the Executive Director and the respondent.

O. N. "Working day" is any day other than a Saturday, Sunday or City holiday. "Violation of law" means a violation of City laws relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics, and State laws relating to campaign finance, conflicts of interest, or governmental ethics, including, but not

limited to: San Francisco Charter section 15.100 et seq. and Appendix C (ethics); the San Francisco Campaign and Governmental Conduct Code; the San Francisco Sunshine Ordinance, S.F. Administrative Code Ch. 67; the Political Reform Act of 1974, Government Code section 81000 et seq.; Government Code section 1090 et seq.; and Government Code section 3201, et seq.

III. COMPLAINTS

A. Formal Complaints

1. Any person or entity may file a formal complaint alleging a violations of State or City laws relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics law. Formal complaints must be made in writing on a form specifically provided by the Commission staff, ~~and must be dated, verified and signed by the complainant under penalty of perjury.~~ If the complainant is an entity, the complaint must be verified and signed under penalty of perjury by an authorized officer or agent of the entity. Formal complaints must include the following information, upon the complainant's information and belief:

- (a) the name and address of the respondent;
- (b) the provision(s) of law allegedly violated;
- (c) the facts constituting the alleged violation(s);
- (d) the names and addresses of witnesses, if any; and
- (e) identification of documents or other evidence which may prove the facts constituting the alleged violation(s), if any;
- ~~(f) the name and address of the complainant; and~~
- ~~(g) the telephone number at which the complainant may be reached during normal business hours.~~

2. Formal complaints may be filed anonymously. Any formal complaint not filed anonymously must be verified and signed by the complainant under penalty of perjury. If the complainant is an entity, the complaint must be verified and signed under penalty of perjury by an authorized officer or agent of the entity.

~~2. 3.~~ The Executive Director shall process and review all formal complaints, following the process described in Section IV.

B. Informal Complaints

Any person or entity may file an informal complaint alleging a violation of law by submitting a complaint by telephone, in person, or in writing other than on the form prescribed by the Commission. The Executive Director shall have no obligation but has the discretion to process and review informal complaints. ~~Informal complaints include the following: written complaints that are not verified or signed under penalty of perjury, and/or that do not contain the information required by Section III, subsection A, above; unwritten complaints; and referrals from other governmental agencies.~~

C. Complaints Initiated by the Commission Executive Director

~~The Executive Director may initiate~~ Complaints may be initiated by the Commission, its staff, or any individual Commissioner. These complaints need not conform to the requirements for formal complaints specified in subsection A of this Section. ~~The Executive Director shall review and process all complaints initiated by the Commission and individual Commissioners. The Executive Director shall have no obligation but has the discretion to process and review complaints initiated by Commission staff.~~

D. Complaints Made at Public Meetings

The Commission shall not receive complaints at public meetings. The Commission shall urge the public in the strongest terms possible not to make complaints at public meetings.

IV. REVIEW OF COMPLAINTS

A. Preliminary Review. The Executive Director must conduct a preliminary review of each formal complaint. This inquiry may include reviewing relevant documents, communicating with the complainant, communicating with the respondent, and any other inquiry to determine whether a full investigation is warranted.

~~A.1. B. There is No Reason to Believe a Violation Occurred.~~ **Dismissal of Complaint.** ~~If, b~~Based on the allegations and information contained in a complaint, and the Executive Director's preliminary review, the Executive Director may dismiss the complaint if the allegations do not warrant further action for reasons that may include, but are not limited to:

1. Credible evidence refutes the allegations.
2. The allegations, if true, do not constitute a violation of law within the Commission's jurisdiction.
3. The complaint contains an expression of opinions, rather than specific allegations.

4. The allegations contained in the complaint are already under investigation, or already have been resolved, by the Commission or another law enforcement agency.

determines that there is no reason to believe that a violation of State or City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest or governmental ethics has occurred, the Executive Director may dismiss the complaint and If the Executive Director dismisses a complaint under this section, the Executive Director shall take no further action on the complaint, except: 1) inform the complainant of the Executive Director's decision; 2) at his or her discretion, issue a warning letter to the respondent; and or 3) at his or her discretion, refer the complaint to another agency for its appropriate action.

A.2.—The Executive Director shall provide a monthly summary to the Commission of each complaint dismissed, including the reasons for dismissal, provided that such information shall comply with the confidentiality requirements of the Charter.

B.1. C. There is Reason to Believe a Violation May Have Occurred. If, based on the allegations and information contained in a complaint, and the Executive Director's preliminary review, the Executive Director determines that there is reason to believe that a violation of State or City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest or governmental ethics may have occurred, the Executive Director shall immediately forward the complaint to the District Attorney and the City Attorney. The Executive Director may commence an investigation and notify respondent(s) that a complaint has been filed by providing a brief summary of the allegations, excluding the name of the complainant.

B.2. Within ten business days after receipt of the complaint, the District Attorney and City Attorney shall inform the Commission whether the District Attorney or City Attorney has initiated or intends to pursue an investigation of the complaint.

If neither the District Attorney nor City Attorney intends to pursue an investigation, within 14 days of such notification, the Executive Director shall inform the complainant in writing of the action, if any, that he or she has taken or plans to take on the complaint, together with the reasons for such action or non-action. If the Executive Director has not informed the complainant of the action that he or she has taken or plans to take on the complaint within 14 days, the complainant shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

V. CONDUCT OF INVESTIGATIONS

B.3. A. Factual Investigation. An The Executive Director's investigation may include, but shall not be limited to, the interview of the respondent(s) and any witnesses, the deposition of respondent(s) and/or witnesses, and the review of documentary and other evidence.

B.4. Subpoenas. During an investigation, the Executive Director may if necessary compel by subpoena the testimony of witnesses and the production of documents relevant to the investigation.

VI. DETERMINATION THAT THERE IS NOT PROBABLE CAUSE TO BELIEVE A VIOLATION OF LAW HAS OCCURRED

A. Executive Director Determination and Calendaring. At the conclusion of the investigation, if the Executive Director determines that there is not probable cause to believe that a violation of state or local law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics has occurred, the Executive Director shall inform the Commission of that determination and provide clear and concise reasons supporting that determination. Thereafter any two or more members of the Commission may cause the item to be calendared for consideration by the full Commission in a closed session at the next Commission meeting held no sooner than ~~40~~ ten days after the date the Executive Director informs the Commission of the Executive Director's determination. Commissioner's requests that a complaint be calendared for consideration by the full Commission must be received by the Executive Director not less than 5 ~~five~~ days prior to the date of the meeting, so that the Executive Director may comply with the applicable notice and agenda requirements.

A-1. B. Commission Decision Not to Dismiss. If the matter is calendared for consideration by the Commission, and if the Commission decides that there is ~~probable cause~~ reason to believe to believe that a violation of State or City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest or governmental ethics may have occurred, the Commission shall direct the Executive Director either to ~~either further~~ investigate the matter further or to prepare a probable cause report and schedule a probable cause hearing.

A-2. C. Commission Decision to Dismiss. If the matter is calendared for consideration by the Commission, and if the Commission decides that there is not ~~probable cause~~ reason to believe that a violation of law ~~has~~ may have occurred, the Commission shall take no further action on the complaint other than: 1) inform the complainant and respondent of the Commission's decision; 2) at the ~~the~~ Commission's discretion, issue a warning letter to the respondent; or 3) at the Commission's discretion, refer the complaint to another agency for its appropriate action.

A-3. D. Commission Decision Not to Calendar. If the Executive Director determines that there is not probable cause to believe that a violation of State or City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest or governmental ethics has occurred, and if after the Executive Director informs the Commission of the determination the Commission does not calendar the matter for consideration pursuant to section VI(A), the Executive Director shall take no further action except: 1) inform the complainant and respondent of the Executive Director's decision; 2) at his or her discretion, issue a warning letter to the respondent; or 3) at his or her discretion, refer the complaint to another agency for its appropriate action.

VII. RECOMMENDATION THAT THERE IS PROBABLE CAUSE TO BELIEVE A VIOLATION OF LAW HAS OCCURRED

A. Probable Cause Report. When the Executive Director concludes an investigation, and determines there is probable cause to believe a violation of state or local law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics has occurred, the Executive Director shall prepare a written "probable cause report" and schedule a probable cause hearing. The probable cause report shall contain a summary of the laws that the Executive Director believes the respondent(s) violated and evidence gathered through the investigation, including any exculpatory and mitigating information. In the probable cause report, the Executive Director may consider as evidence present statements including hearsay, declarations of investigators or others relating to the statements of witnesses, or the examination of physical evidence. Unless otherwise permitted by the Commission Chair or the Commission Chair's designee for good cause shown, the probable cause report shall not exceed 25 pages excluding attachments.

B. Delivery of Probable Cause Report and Notice of Probable Cause Hearing. The Executive Director shall deliver to the respondent a copy of the probable cause report. The complaint is deemed to have been brought by the Commission on the date of service. The Executive Director shall deliver to each respondent a copy of the probable cause report, with written notice of the date, time and location of the probable cause hearing, together with a copy of the probable cause report, at least 45 days in advance of the hearing date. The notice shall include a statement that inform each respondent that he or she has the right to be present and represented by counsel at the probable cause hearing.

C. Unless otherwise decided by the Commission, the Commission shall sit as a hearing panel to conduct the probable cause hearing. The Commission may assign one of its members or an outside hearing officer to conduct the probable cause hearing and submit a report and recommendation to the Commission.

VII. RESPONSE TO THE PROBABLE CAUSE REPORT; REBUTTAL

A. C. Response to the Probable Cause Report

1. Each respondent may submit a written response to the probable cause report. The response may contain legal arguments, a summary of evidence, and any mitigating or exculpatory information. Unless otherwise permitted by the Commission Chair or the Commission Chair's designee for good cause shown, the response shall not exceed 25 pages excluding attachments.

2. Each respondent who chooses to submit a response must deliver the response no later than 20 days prior to the date of the probable cause hearing. Unless the parties agree to deliver materials by email, the respondent must deliver a total of eight copies of the response to the Commission and Executive Director. The Executive Director must then immediately distribute copies of the response to the Commission. The respondent must

also deliver one copy of the response to ~~each~~ every other respondent named in the probable cause report.

B. D. Rebuttal

The Executive Director may submit evidence or argument in rebuttal to a response. If the Executive Director chooses to do so the Executive Director must deliver the rebuttal to the Commission ~~members~~ and each respondent named in the probable cause report no later than 7 seven days prior to the date of the probable cause hearing. Unless otherwise permitted by the Commission Chair or the Commission Chair's designee for good cause shown, the rebuttal shall not exceed ~~15~~ ten pages excluding attachments.

VIII. PROBABLE CAUSE HEARING; DETERMINATION OF WHETHER AND HOW TO PROCEED WITH A HEARING ON THE MERITS

A. General Rules and Procedures

1. Unless otherwise decided by the Commission, the Commission shall sit as a hearing panel to conduct the probable cause hearing. The Commission may assign one of its members to conduct the probable cause hearing and submit a report and recommendation to the Commission.

~~1- 2. Except for hearings regarding alleged willful violations of the Sunshine Ordinance referred to the Ethics Commission by the Sunshine Ordinance Task Force, the hearing shall be closed to the public to the extent permitted by state law, unless the respondent requests that the probable cause hearing be held in public. Probable cause hearings regarding alleged willful violations of the Sunshine Ordinance referred to the Ethics Commission by the Sunshine Ordinance Task Force shall be held at a public meeting unless otherwise provided in state or local law.~~

2- 3. Unless otherwise decided by the Commission, Formal rules of evidence shall not apply to the probable cause hearings held pursuant to these Regulations. Neither the Executive Director nor the respondent(s) may present live witness testimony at the probable cause hearing.

3- 4. The Commission may find that there is probable cause to believe a violation of law has occurred only if a person of ordinary caution and prudence would conclude, based on the evidence, that there is a reasonable ground to suspect that the respondent has committed the violation.

B. Probable Cause Determination

1. If the Commission as a whole conducts the probable cause hearing, the Commission shall make the probable cause determination no later than 45 days after the date the hearing is concluded. If the Commission assigns one of its members to conduct

the probable cause hearing, the assigned member shall submit a report and recommendation to the Commission no later than 30 days after the date the hearing concludes, and the Commission shall make the probable cause determination no later than 45 days after the assigned member delivers his or her report and recommendation.

2. A determination that there is probable cause to believe that a violation of law has occurred shall be based on the entire record of the proceedings. Each Commissioner who participates in the decision shall certify on the record that he or she personally heard or read the testimony (either in person or by listening to a tape or reading the transcript prepared by a court reporter) and reviewed the evidence, or otherwise reviewed the entire record.

3. The Commission shall not make a finding of probable cause if it is presented with clear and convincing evidence that, prior to the alleged violation:

(a) the respondent had requested and obtained a written opinion from the Commission ~~or its staff~~; and

(b) the respondent, in requesting the opinion, disclosed truthfully all the material facts pertinent to the case; and

(c) the Commission or its staff issued a formal, written opinion with which both the District Attorney and City Attorney concurred; and

(d) the respondent committed the acts or violations alleged in the complaint in good-faith reliance upon the formal, written opinion of the Commission ~~or its staff~~.

4. If the Commission determines that there is not probable cause to believe a violation has occurred, the Commission shall dismiss the complaint and take no further action on the complaint, except: ~~the Executive Director~~ 1) inform the complainant and each respondent of the Commission's decision; 2) at the Commission's discretion ~~direction of the Commission~~, issue a warning letter to the respondent; or and 3) at the Commission's discretion ~~direction of the Commission~~, refer the complaint to another agency for its appropriate action.

5. If the Commission determines that there is probable cause to believe a violation of ~~City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics~~ has occurred, the Commission shall announce its this determination shall be announced in open session by the Commission. The announcement shall contain a summary of the allegations for which the Commission determines there is probable cause to believe a violation of law has occurred and a cautionary statement that each respondent is presumed to be innocent unless and until such time that the allegations are proved in a subsequent hearing on the merits.

C. Determination How to Proceed with Hearing on Merits

1. Following a determination of probable cause by the Commission, the Commission shall proceed with a hearing on the merits of the complaint. Unless otherwise decided by the Commission, the Commission shall sit as the hearing panel to hear the merits of the case. The Commission may also sit as the hearing panel to hear the case, with an outside hearing officer presiding, or designate an individual Commissioner or an outside hearing officer to hear the case and file a report and recommendation for decision by the Commission.

2. The Commission shall provide for resolution of preliminary matters, in advance of the hearing on the merits, ~~of preliminary matters~~. Unless otherwise decided by the Commission, the Commission Chair shall hear and decide preliminary matters pursuant to Section X, subsection B. The Commission alternatively may designate an individual Commissioner or an outside hearing officer to hear and decide preliminary matters.

3. The Commissioner or hearing officer assigned to decide preliminary matters shall also be authorized to ~~shall also~~ provide for the issuance of subpoenas.

D. Amending Probable Cause Determination

Before the Executive Director has scheduled the hearing on the merits, or no later than 60 days prior to the date the hearing on the merits is scheduled to commence, the Executive Director may request that the Commission amend the probable cause determination to add or amend allegations or charges against the respondent. If the Executive Director seeks to amend the probable cause determination, the Executive Director, the respondent(s) and the Commission shall follow the procedures set forth in Sections VII and VIII, and the Executive Director shall issue an amended accusation and notice of the hearing on the merits following the procedures set forth in Section IX.

IX. ISSUANCE OF ACCUSATION; SCHEDULING AND NOTICE OF HEARING ON MERITS

A. Issuance of Accusation

Except as provided in Section XI, following a determination of probable cause by the Commission, the Executive Director shall issue an accusation. The accusation shall clearly specify the provisions of the laws City Charter or ordinances which were that each respondent allegedly violated and shall set forth the acts or omissions with which each respondent is charged. The accusation shall list only those charges for which the Commission made a determination of probable cause. The Executive Director shall deliver a copy of the accusation to each respondent ten days after the Commission's probable cause determination. The accusation is a public document.

The Executive Director shall present the case in support of the accusation at the hearing on the merits. The accusation shall be the charging document for the purpose of the

hearing on the merits. The commission shall not find that any respondent has committed a violation of law if the accusation does not allege such a violation and provide the respondent notice of the basis for the allegation.

B. Scheduling and Notice of Hearing on Merits

1.——The Executive Director shall schedule the hearing on the merits, and deliver written notice of the date, time and location of the commencement of the hearing to each respondent at least 45 days prior to the date commencement of the hearing. The notice shall be in substantially the following form:

“You are hereby notified that a hearing will be held before the Ethics Commission (or name of hearing officer or assigned Commissioner) at ___ on the ___ day of ___, 20___, at the hour of ___, at (location of _____), upon the charges made in the accusation. You may be present at the hearing, may, but need not, be represented by counsel, may present any relevant evidence, and will be given an opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Commission on or before (date).”

X. DISCOVERY; HEARING BRIEFS; PRELIMINARY MATTERS.

A. Discovery

The Executive Director and each respondent shall be entitled to pre-hearing discovery in accordance with the provisions of California Administrative Procedure Act, Government Code, Title 2, Division 3, Part 1, Chapter 5, section 11500 et seq.

B. Resolution of Preliminary and Procedural Matters

1. The Executive Director and any respondent may present preliminary matters, unrelated to the merits of the accusation, to the assigned Commissioner or hearing officer designated to hear such matters pursuant to Section VIII, subsection C(2). Preliminary matters may include, but are not limited to, the following:

(a) procedural matters;

(b) disqualification of any member of the Commission from participation in the hearing on the merits;

(c) requests for dismissal of any charges in the accusation because, even if the allegations set forth in the accusation are true, those charges do not state a violation of law as alleged;

(d) discovery motions; and

(e) any other matters not related to the truth or falsity of the factual allegations in the accusation.

2. A request for resolution of preliminary matters must be delivered to the assigned Commissioner or hearing officer no later than 25 days prior to the commencement of a hearing on the merits. At the same time that the request is delivered to the assigned Commissioner or hearing officer, the requester must deliver copies of the request to the Executive Director and each every other respondent named in the accusation.

3. The request for resolution of preliminary matters may contain legal arguments and a summary of the facts underlying the request. Unless otherwise permitted by the assigned Commissioner or hearing officer for good cause shown, the request shall not exceed 15 pages excluding attachments.

4. The Executive Director or each respondent may submit a written opposition to a request for resolution of preliminary matters. The opposition must be delivered to the assigned Commissioner or hearing officer no later than ten days after the date of delivery of the request. At the same time that the opposition is delivered to the assigned Commissioner or hearing officer, the party submitting the opposition must deliver copies of the opposition to the Executive Director and every other respondent named in the accusation. Unless otherwise permitted by the assigned Commissioner or hearing officer for good cause shown, the opposition shall not exceed ten pages excluding attachments.

5. The requestor may submit a written reply to an opposition. The reply must be delivered to the assigned Commissioner or hearing officer no later than five days after the date of delivery of the opposition. At the same time that the reply is delivered to the assigned Commissioner or hearing officer, the party submitting the reply must deliver copies of the reply to the Executive Director and every other respondent named in the accusation. Unless otherwise permitted by the assigned Commissioner or hearing officer for good cause shown, the reply shall not exceed five pages excluding attachments.

6. The assigned Commissioner or hearing officer shall issue a written decision on each request for resolution of preliminary matters no later than five days prior to the commencement of the hearing on the merits.

7. The Executive Director or any respondent may submit a written request for reconsideration, by the Commission, assigned Commissioner or hearing officer who will conduct the hearing on the merits, of any decision made on preliminary matters. A party requesting reconsideration shall deliver the request on the Commission, assigned

Commissioner or hearing officer, and the Executive Director and any other respondent, no less than three days prior to the hearing on the merits.

8. Before or during the hearing on the merits, the Executive Director and any respondent may file a request for resolution of a procedural matter affecting the conduct of the hearing. This request shall be directed to the Commissioner or hearing officer designated to hear preliminary matters pursuant to Section VIII, subsection C(2). The request shall follow the process outlined by paragraphs 2 through 5 of this section, except that the request may be submitted later than 25 days prior to the commencement of the hearing on the merits but may not be submitted after the conclusion of the hearing on the merits. If either party requests a written decision, the assigned Commissioner or hearing officer shall issue a written decision no later than 20 days after the date of the request.

C. Hearing Briefs

The Executive Director shall, and any respondent may, submit a hearing brief. The brief shall outline significant legal arguments and list evidence and witnesses to be presented at the hearing. The brief is not required to list anticipated rebuttal evidence or rebuttal witnesses. ~~Six~~ Unless the Commission or outside hearing officer agrees to accept briefs by email, six copies of the brief shall be delivered to the Commission, assigned Commissioner, or outside hearing officer no later than 20 days prior to the date of the hearing on the merits commences. The Executive Director shall deliver a copy of the Executive Director's brief to each respondent named in the accusation. Each respondent who chooses to submit a brief shall deliver copies of the respondent's brief to the Executive Director and to ~~each~~ every other respondent named in the accusation.

D. Issuance of Hearing Subpoenas

The Executive Director and any respondent named in the accusation may request the issuance of subpoenas for the attendance of witnesses and for the production of documents at the hearing on the merits. Requests for the issuance of subpoenas should be delivered no later than 20 days prior to the commencement of the hearing on the merits. The request shall be accompanied by a declaration specifying the name and address of the witnesses and setting forth the materiality of their testimony. If the request is for a document subpoena, it shall be accompanied by a declaration which includes the following information: a specific description of the documents sought; an explanation of why the documents are necessary for the resolution of the complaint; and the name and address of the witness who has possession or control of the documents. Subpoenas may be issued only upon approval of the Commission or the Commissioner or hearing officer designated by Section VIII, subsection C(2).

**XI. DISCOVERY OF EXCULPATORY INFORMATION AND
DISMISSAL OF COMPLAINT PRIOR TO HEARING ON
THE MERITS**

A. Discovery of Exculpatory Information. Following the delivery of the probable cause report, if the Executive Director is aware of or discovers any exculpatory information with respect to any charge listed in the accusation, the Executive Director shall notify the Commission and the respondent(s) of this information.

B. Dismissal Recommendation. After a determination of probable cause and before a hearing on the merits, the Executive Director may recommend that the Commission dismiss the complaint. The Executive Director may make such a recommendation based on the Executive Director's discovery of exculpatory information or other good cause. In such situations, if he or she has not done so already, the Executive Director is not required to issue an accusation and the Commission need not hold a hearing on the merits, unless the Commission overrides the Executive Director's dismissal recommendation.

C. Commission Consideration of Dismissal Recommendation. The Executive Director shall present the dismissal recommendation and the reasons for the recommendation to the Commission in a public memorandum. Thereafter, any two or more members of the Commission may cause the complaint to be calendared for consideration by the full Commission in open session at the next Commission meeting occurring no sooner than ten days from the date the Executive Director informs the Commission of the Executive Director's recommendation. A Commissioner's request that a complaint be calendared must be received by the Executive Director no fewer than five days prior to the date of the meeting, so that the Executive Director may comply with the applicable notice and agenda requirements. If two or more members of the Commission do not cause the complaint to be calendared, or if in open session a majority of the Commission does not vote to override the dismissal recommendation, the Commission shall take no further action on the complaint except: 1) inform the complainant and each respondent of the Commission's decision; 2) at the Commission's discretion, issue a warning letter to the respondent; or 3) at the Commission's discretion, refer the complaint to another agency for appropriate action.

D. Dismissal or Removal of Specific Charges. After a determination of probable cause and before a hearing on the merits, the Executive Director may decide not to proceed with a specific charge or allegation listed in the accusation. If the Executive Director makes such a determination, the Executive Director shall immediately notify in writing the respondent(s) and the Commission or hearing officer. If the Executive Director provides such notice, the Commission shall not find a violation based on the specific charge or violation after a hearing on the merits.

XII. HEARING ON THE MERITS

A. General Rules and Procedures

1. Public Hearing

The hearing on the merits shall be open to the public, provided that either the Executive Director or the respondent(s) may request that the Commission, assigned Commissioner or hearing officer exclude any witnesses.

2. Standard of Proof

The Commission may determine that a respondent has committed a violation of law only if a person of ordinary caution and prudence would conclude, based on a preponderance of the evidence, that the respondent has committed the violation.

3. Rules of Evidence

All evidence admissible in an administrative proceeding governed by the California Administrative Procedure Act shall be admissible in a hearing on the merits. The Executive Director and each respondent shall have the right to call and examine witnesses under oath or affirmation, to introduce exhibits, to cross-examine and impeach witnesses, and to rebut any evidence presented.

4. Exhibits

Where both parties stipulate to the admissibility of an exhibit, the parties shall so advise the Commission in advance of the hearing. For all other exhibits, each party may move to admit a particular exhibit at the hearing, and the other party shall have an opportunity to object prior to the ruling on the admission.

5. Witnesses

Witnesses shall be examined by the parties as follows: direct examination, cross-examination, re-direct. After the parties have concluded their examination of a witness, Commissioners shall have an opportunity to pose questions to the witness.

4-6. Oral Argument

At the hearing, the Executive Director and each respondent shall be allowed oral argument. The Commission, assigned Commissioner, or hearing officer shall determine the appropriate length for the arguments.

B. Finding of Violation

If the Commission as a whole conducts the hearing on the merits, the Commission shall determine, no later than 45 days after the date the hearing is concluded, whether the respondent has committed a violation of City law ~~has occurred~~. If the Commission assigns one of its members or an outside hearing officer to conduct the hearing on the merits, the assigned member or hearing officer shall submit a report and recommendation to the Commission no later than 30 days after the date the hearing is concluded. Thereafter, the Commission shall determine, no later than 45 days after the date the report and recommendation is delivered, whether the respondent has committed a violation of City law ~~has occurred~~.

The votes of at least three Commissioners are required to find a violation of ~~City law relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics~~. The finding of a violation shall be supported by findings of fact and conclusions of law and shall be based on the entire record of the proceedings. Each Commissioner who participates in the decision shall certify on the record that he or she personally heard the testimony (either in person or by listening to a tape or recording of the proceeding) and reviewed the evidence, or otherwise reviewed the entire record of the proceedings.

C. Administrative Orders and Penalties

1. The votes of at least three Commissioners are required to impose orders and penalties for a violation. The Commission may issue orders and penalties requiring the respondent(s) to:

- (a) cease and desist the violation;
- (b) file any reports, statements or other documents or information required by law; and/or
- (c) pay a monetary penalty to the general fund of the City in an amount permitted under the law that the Commission finds the respondent has violated, or, if the law does not specify the amount of the monetary penalty, in an amount of up to five thousand dollars (\$5,000) for each violation, or three times the amount which the respondent failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater.

2. When deciding on an order and penalties, the Commission shall consider all the relevant circumstances surrounding the case, including but not limited to:

- (a) the severity of the violation;
- (b) the presence or absence of any intention to conceal, deceive, or mislead;

(c) whether the violation was deliberate, negligent or inadvertent;

(d) whether the violation was an isolated incident or part of a pattern;

(e) whether the respondent has a prior record of violations of City-law ~~under the jurisdiction of the Commission relating to campaign finance, lobbying, campaign consulting, conflicts of interest, or governmental ethics~~; and

(f) the degree to which the respondent cooperated with the investigation and demonstrated a willingness to remedy any violations.

3. Unless otherwise ordered by the Commission, any penalties imposed by the Commission must be paid in full by the respondent within 90 days of the Commission's decision.

D. Finding of No Violation

If the Commission determines that there is insufficient evidence to establish that the respondent has committed a violation ~~has occurred~~, or if the Commission determines that there is sufficient evidence to establish that the respondent has not committed a ~~no~~ violation ~~has occurred~~, the Commission shall publicly announce this fact. Thereafter, the Commission shall take no further action on the complaint. The Executive Director shall inform each respondent and complainant of the Commission's determination.

XIII. MISCELLANEOUS PROVISIONS

A. Ex Parte Communications

Once a complaint is filed, no Commissioner or staff member shall engage in oral or written communications outside of a hearing-Commission meeting, interview or settlement conference regarding the merits of an enforcement action with the respondent or complainant or any person communicating on behalf of the respondent or complainant unless the communication is necessary for the conduct of the investigation or enforcement action.

B. Access to Complaints and Related Documents and Deliberations

1. Except as described in subsection 3 for complaints alleging violations of the San Francisco Sunshine Ordinance, no complaint, response thereto, investigative file or information contained therein, or Commissioner and staff deliberations about complaints shall be disclosed except as necessary to the conduct of an investigation, prior to a probable cause determination.

2. After a determination of probable cause, the probable report, the response, and the rebuttal shall be confidential, unless the respondent requested that the probable cause hearing be public. All investigative documents, including notes and memoranda, created

prior to the probable cause determination, such as the complaint, shall remain confidential, except that the Executive Director may provide a copy of the complaint to the respondent(s) if the Executive Director determines that disclosure is necessary to the conduct of the investigation. All investigative documents, including notes and memoranda, created by the Executive Director and his or her staff after the probable cause determination shall be confidential, except for the accusation, until any such documents are either delivered to the Commission or respondent(s), introduced as evidence or an exhibit, or distributed for public consumption, such as an agenda or press release.

3. For complaints alleging willful violations of the San Francisco Sunshine Ordinance (S.F. Administrative Code Ch. 67) ~~referred to the Ethics Commission by the Sunshine Ordinance Task Force~~, no complaint, investigative file or information contained therein, or Commissioner or staff deliberations shall be disclosed except as necessary to the conduct of an investigation or as required by the California Public Records Act (Government Code section 6250, et seq.) or the San Francisco Sunshine Ordinance. Deliberations by the Commission regarding such a complaint shall be conducted at a public meeting. In order to guarantee the integrity of the investigation, internal notes taken by the Executive Director or his or her staff shall not be disclosed until after the dismissal of a complaint or the Commission has issued its final decision following the hearing on the merits.

4. In addition to the prohibition on ex parte communications stated in Section XIII, subsection A, except at a public meeting of the Commission, Commissioners are prohibited, prior to a final determination on the merits of a complaint, from engaging in oral or written communications regarding the merits of a complaint or enforcement action with any person or entity unless the communication is necessary for the conduct of the investigation or enforcement action. After a final determination on the merits of a complaint, Commissioners may discuss matters in the public record.

C. Oaths and Affirmations

The Commission, and individual Commissioners and hearing officers assigned to conduct hearings, may administer oaths and affirmations.

D. Selection of Designee by the Executive Director

Whenever the Executive Director designates an individual other than a member of the Commission staff to perform a duty arising from the Charter or these Regulations, the Executive Director shall notify the Commission of the designation no later than the next business day.

E. Powers and Duties of Hearing Officers

1. Unless otherwise provided, whenever the Commission assigns an individual Commissioner or hearing officer to hear any matter under these Regulations, the assigned

Commissioner or hearing officer shall have the same authority, and be subject to the same restrictions, as the Commission.

2. When an individual Commissioner or a hearing officer is assigned to hear and decide preliminary matters in advance of a hearing on the merits, he or she shall make an actual determination. This determination may be reviewed by the Commission upon request by the Executive Director or a respondent, pursuant to the procedures specified in Section XI, subsection B(67).

3. When an individual Commissioner or a hearing officer is assigned to conduct a probable cause hearing or hearing on the merits, he or she shall submit a report and recommendation for decision by the Commission. The report and recommendation shall contain proposed findings of fact and conclusions of law. Copies of the report and recommendation shall be delivered to the Commission, Executive Director, and each respondent no later than 30 days after the date the hearing is concluded. Thereafter, the Executive Director shall calendar the matter for consideration at the next Commission meeting not less than 15 days after the date the report and recommendation is delivered to the Commission.

4. When the Commission sits as the hearing panel to hear a case, with an outside hearing officer presiding, ~~a hearing officer presides over a hearing conducted by the Commission~~, the hearing officer shall rule on procedural matters and on the admission and exclusion of evidence only, and shall have no role in the decision on the merits.

F. Statute of Limitations

1. Unless otherwise stated in local or State law, for statute of limitations purposes, an action or proceeding for administrative penalties is brought or commenced by the Executive Director on the date the Executive Director delivers the probable cause report.

2. If there is no statute of limitations for violations of the law allegedly violated, the probable cause report must be delivered within four years of the date of events which form the basis of the complaint, or the date that the events constituting the basis of the complaint were discovered by the Ethics Commission, whichever is later.

G. Extensions of Time and Continuances

Whenever the Executive Director, a respondent, or a witness, ~~an assigned Commissioner or hearing officer~~ is required to complete an act or produce materials pursuant to these Regulations, that party may request an extension of time. Requests for extensions of time may be made to the Commission Chair or the Commission Chair's designee. The requester must ~~serve~~ deliver the request on to the Commission Chair or designee and provide a copy of the request to the opposing all other parties party no later than 10 ten working-business days before the deadline to complete an act or produce materials. The Commission Chair or designee shall have the discretion to consider untimely requests. The Commission Chair or the ~~Commission Chair's~~ designee shall approve or deny the

request within five ~~working business~~ days of the submission of the request. The Commission Chair or ~~the Commission Chair's~~ designee may grant the request only upon a showing of good cause.

The Executive Director or any respondent may request the continuance of a hearing date. The requester must ~~serve~~ deliver the request ~~on to~~ the Commission Chair ~~or the~~ individual Commissioner or hearing officer assigned to hold the hearing, and provide a copy of the request to ~~all other parties~~ ~~the opposing party~~ no later than ~~10 ten~~ working business days before the date of the hearing. The Commission Chair ~~or the individual Commissioner or hearing officer assigned to hold the hearing~~ shall have the discretion to consider untimely requests.

The Commission Chair ~~or the individual Commissioner or hearing officer assigned to hold the hearing or the Commission Chair's designee~~ shall approve or deny the request within five working days of the submission of the request. The Commission Chair ~~or the individual Commissioner or hearing officer assigned to hold the hearing~~ ~~the Commission Chair's designee~~ may grant the request only upon a showing of good cause.

H. Referrals to Other Enforcement Agencies

At any time after the filing of ~~Commission takes jurisdiction over~~ a complaint, the Commission or Executive Director may refer the matter to another government agency or official if the Commission ~~or Executive Director~~ determines that the agency or official may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law. A copy of all information gathered by the Commission staff shall be sent to the agency or official together with the referral.

A determination by the Executive Director ~~or the Commission~~ that no further action should be taken on a matter shall not prevent any other government agency from initiating its own enforcement action, including disciplinary action, based on the same allegations and facts.

I. Recordings and Transcripts

Every probable cause hearing and hearing on the merits shall be tape-recorded. ~~Where the Commission assigns a Commissioner to conduct a probable cause hearing, and where the Commission assigns a Commissioner or hearing officer to conduct a hearing on the merits, the hearing shall also be recorded stenographically, and the~~ The Commission shall retain the tapes shall be retained by the Commission until the opportunity for appeal legal challenge has been exhausted. Copies of a tape shall be available to the respondent upon request. ~~Where the Commission assigns a commissioner or a hearing officer to determine probable cause or hear a case on the merits, the hearing shall also be recorded by a court reporter.~~

J. Place of Delivery

1. Whenever these Regulations require delivery to the Commission, its members, or the Executive Director, delivery shall be effected at the Commission office.

2. Whenever these regulations require delivery to a respondent or his or her committee, delivery shall be effective and sufficient if made by U.S. mail, personal delivery or any other means of delivery agreed upon by the parties under section II, subsection F, to:

a. If the respondent is a City employee, to the address listed with the (Controller/ Payroll) as the employee's current address.

b. If the respondent is a former City employee, to the address listed with the City's retirement system.

c. If the respondent is a current or former candidate or committee registered with the Ethics Commission, to the address provided to the Ethics Commission by that candidate or committee.

d. If subsections (a) through (c) are not applicable, to an address reasonably calculated to give notice to and reach the respondent.

It is the responsibility of City employees, or candidates or committees registered who file reports with the Ethics Commission, to maintain accurate addresses with relevant City Departments. The Executive Director therefore may rely on those addresses in carrying out the objectives of the Commission.

3. Delivery is effective upon the date of delivery, not the date of receipt.

K. Page Limitations and Format Requirements

Whenever these Regulations impose a page limitation, a "page" means one side of an 8½ inch by 11 inch page, with margins of at least one inch at the left, right, top and bottom of the page, typewritten and double-spaced in no smaller than ~~11~~12 point type. Each page and any attachments shall be consecutively numbered.

L. Public Summary of Dismissed Complaints

Notwithstanding any other provision of these regulations, the Executive Director may provide a public summary of dismissed complaints. Such summary may include, but need not be ~~is not~~ limited to, a generic description of each dismissed complaint and a summary of the reasons for dismissal, provided that such information shall comply with the confidentiality requirements of the Charter.

M. Conclusion of Hearing on the Merits

For the purposes of these Regulations, a hearing on the merits concludes on the last date on which the Commission hears argument or testimony in the proceeding.

XIV. Stipulated Orders STIPULATED ORDERS

~~1.~~ **A.** At any time after the Commission takes jurisdiction over a complaint, the Executive Director may enter into negotiations with a respondent for the purpose of resolving the factual and legal allegations in a complaint by way of a stipulation, decision and order. Any proposed stipulation, decision and order shall explicitly state that:

(a~~1~~) the proposed stipulation, decision and order is subject to approval by the Commission;

(b~~2~~) the respondent knowingly and voluntarily waives any and all procedural rights under the law and these Regulations;

(c~~3~~) the respondent understands and acknowledges that the stipulation is not binding on any other law enforcement agency, and does not preclude the Commission or its staff from referring the matter to, cooperating with, or assisting any other government agency with regard to the matter, or any other matter related to it;

(d~~4~~) the respondent agrees that in the event the Commission refuses to approve the proposed stipulation, it shall become null and void; and

(e~~5~~) in the event the Commission rejects the proposed stipulation and a full evidentiary hearing before the Commission becomes necessary, no member of the Commission shall be disqualified because of prior consideration of the stipulation.

~~2.~~ **B.** The stipulated order shall set forth the pertinent facts and may include an agreement as to anything that could be ordered by the Commission under its authority pursuant to Charter section C3.699-13~~4~~.

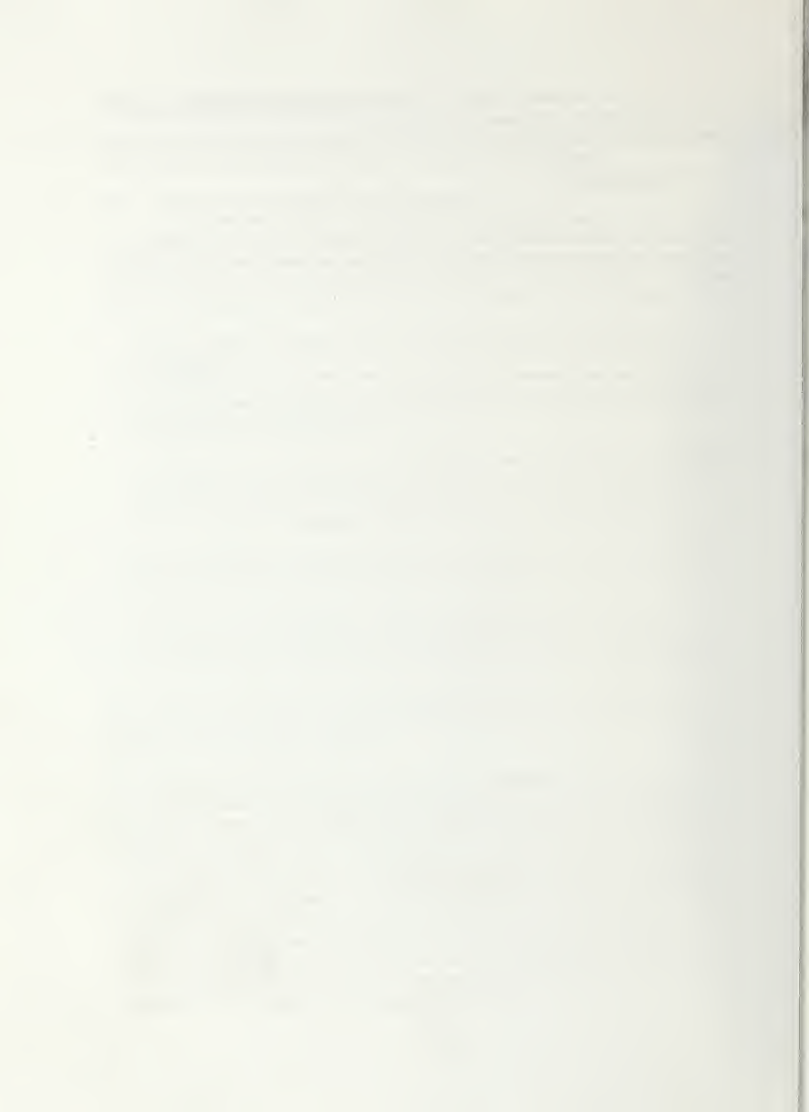
~~3.~~ **C.** (a) ~~Once the Executive Director enters into a stipulated agreement with a respondent, the Executive Director shall inform the Commission of this stipulation. Thereafter, any two or more members of the Commission may cause the stipulation to be calendared for consideration by the full Commission in a closed session at the next Commission meeting occurring no sooner than 10-ten days from the date the Executive Director informs the Commission of the stipulated agreement. If there is a vacancy on the Commission or if a member must recuse himself or herself from consideration of the stipulated order, one member of the Commission may cause the stipulation to be calendared. Commissioners' requests that a stipulated agreement be calendared for consideration by the full Commission must be received by the Executive Director no fewer than 5-five days prior to the date of the meeting, so that the Executive Director may comply with the applicable notice and agenda requirements.~~

D. ~~(b)~~ Stipulated orders must be approved by the Commission and, upon approval, must be announced publicly. The stipulated order shall have the full force of an order of the Commission.

XV. SEVERABILITY

If any provision of these Regulations, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Regulations and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

MIENNE S. STUDLEY
CHAIRPERSON

SUSAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: October 14, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

Re: Policy Priorities Discussion at the October 19, 2009 Meeting

At its August 2008 meeting, the Commission discussed policy priorities for the coming year. The language below, taken from the draft annual report, outlines the result of those discussions and may be useful as a framework for Monday's discussion.

For this particular year, the Commission determined that the following were areas of priority for the Commission to consider and improve.

1. Education and Technology
2. Campaign Finance Laws
3. Communications with the Public
4. Enforcement
5. Conflicts of Interest
6. Lobbyist and Campaign Consultant Ordinances.

Education and Technology – The Commission made significant technological advancements including: on-line training and education classes; a new web site that better connects with the community; digitizing Commission filings and making records accessible on-line; and enhancements to on-line filing including making additional forms available in electronic format.

Campaign Finance Laws – the Commission implemented complex changes to the public financing laws related to individual expenditure ceilings this fiscal year. In addition, it approved amendments to modify the calculation governing when a publicly financed candidate may access additional public funds. After the election, the Commission began taking steps to propose substantive amendments to the CFRO. The Commission also recommended and adopted regulations to implement the voter-approved Proposition H to provide guidance on when elected officials are barred from soliciting or receiving contributions from contractors.

Communications with the Public – the Commission set aside a portion of its November 2008 meeting to discuss this subject and some positive feedback was received from the Department of Human Resources and the general public on the quality of Commission communications. The Commission also scheduled a first-time joint meeting with the

Sunshine Ordinance Task Force in April of 2009 which appears will result in changes in the methods the two bodies use to relate to each other.

Enforcement – after the Commission completed work on its first ever Hearing on the Merits, Commission staff worked closely with Commissioner Harriman to draft new and improved regulations related to the conduct of enforcement duties, particularly those governing procedures in probable cause hearings and hearings on the merit. The series of recommendations in these areas is currently pending before the Commission.

Conflicts of Interest – As noted earlier, the Commission completed its several-year review of Statements of Incompatible Activities, with the final SIAs for all departments, boards and commissions approved on September 8, 20008. On October 8, all the SIAs went into effect; Commission staff then worked with several departments to develop and present trainings on ethics and the SIAs. Such trainings remain ongoing. Earlier in the fiscal year, the Commission proposed and approved regulations that address various aspects of the SIAs relating to the advance written determination, handling of complaints of alleged violations of the SIAs and penalties for violations.



ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EXECUTIVE DIRECTOR'S REPORT TO THE SAN FRANCISCO ETHICS COMMISSION For the Meeting of October 19, 2009

MIENNE S. STUDLEY
CHAIRPERSON

SUSAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

1. Staff Changes:

As I mentioned at last month's meeting, the budget cutbacks mean that the Commission will be losing one of its permanent staff positions effective November 16, 2009. In addition, due to civil service bumping rules, two members of our staff will also lose their jobs on November 16. Combined with the changes in our enforcement and audit divisions, we will be working with several new staff in the coming months. Given that the work that the Commission is complex and myriad, the learning curve will be steep and it may take several months before our staff will be able to function as smoothly as we've become accustomed.

2. Investigation and enforcement program.

Since its last regular meeting on September 14, 2009, the Commission has received zero new complaints. There are currently 13 complaints pending in the Commission's jurisdiction.

Category	# of Complaints
Campaign Finance	5
Conflict of Interest	3
Governmental Ethics	2
Lobbyist Ordinance	1
Campaign Consultant Ordinance	0
Sunshine Ordinance	2
TOTAL	13

3. Campaign finance disclosure program.

a. Filing deadline. The next filing deadline is October 22, 2009 for the Second Pre-Election statement, which covers the reporting period beginning the day after the closing date of the last statement filed, or January 1, 2009 through October 17, 2009. Several candidates have already expressed an interest in running for office in November 2010. Staff has been conducting outreach for such potential candidates. Outreach to potential candidates includes contacting and setting up a one-on-one appointment with the candidate and/or his or her treasurer to discuss campaign finance processes and requirements. The purpose of this outreach is to inform first-time candidates and treasurers of their filing obligations prior to them engaging in campaign finance activity.

b. Collection of late filing fees and contribution forfeitures. Campaign finance collections as of October 14 for FY 09-10 totaled \$4,291, based on filings made during previous fiscal years and the current fiscal year. By comparison, campaign finance collections as of October 14 in prior fiscal years were as follows:

Fiscal year	Collections by Sept. 9	Total collections in FY
02-03	\$5,425	\$49,322
03-04	\$14,792	\$51,607
04-05	\$16,640	\$199,524
05-06	\$13,359	\$85,390
06-07	\$23,369	\$119,814
07-08	\$39,046	\$65,035
08-09	\$8,066	\$48,673

The \$4,291 amount is based on prior assessments as follows:

FY when assessed	Amount collected in 09-10
06-07	\$480.00
07-08	\$970.05
08-09	\$2,606.28
09-10	\$235
Total:	\$4,291.33

FY 08-09 waivers, as well as waivers from past years provided for comparison, are as follows:

FY when assessed	Amount assessed	Amount waived during FY
04-05	\$907,069	\$683,086
05-06	\$546,859	\$342,901
06-07	\$181,831	\$50,347
07-08	\$217,444	\$159,880
08-09	\$322,529	\$107,176
09-10	\$7,899	\$0

To date, the outstanding balance of late fees assessed from the current and previous years, including \$75,251 in fees that have been referred to the Bureau of Delinquent Revenues, is \$218,957, down from \$219,739 as last reported.

The current outstanding balance of contribution forfeitures assessed as a result of the defective reporting of contributor information and contribution limit violations is \$70,918, up from \$71,218 as last reported. The \$70,918 amount consists of forfeitures from the 2005-2006 filing periods and does not include forfeiture assessments from the 2008 filing period. Staff continues to process requests for waiver of late fees and forfeitures.

c. Status of accounts to San Francisco Bureau of Delinquent Revenues (BDR). The following chart provides details on pending accounts referred to BDR:

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
1	Committee to Elect Rebecca Silverberg	1220430	Lucia Paulazzo	5/6/05	\$21,086.00	\$21,086.00	\$21,086.00
2	Yick Tsun Society, Inc.	PEN1078	Florence Fang	8/16/05	\$7,550.00	\$7,550.00	\$7,550.00
3	SEIU Local 87	PEN951	Mike Garcia & Michael Baratz	8/25/05	\$14,350.00	\$14,350.00	\$14,350.00
5	Johnnie Carter for Community College Board	1226264	Johnnie Carter	6/16/06	\$9,520.00	\$6,595.00	\$6,595.00
7	Micheas Herman	PEN788	Micheas Herman	6/26/06	\$100.00	\$100.00	\$100.00
8	San Franciscans for Fair & Honest Government	1258209	Erik Howell	10/20/06	\$4,659.22	\$4,659.22	\$4,659.22
9	Myrna Viray Lim for District 11 Supervisor	1256697	Jia Jun Chen	4/27/07	\$3,855.00	\$3,855.00	\$3,855.00
10	Committee to Elect M. Valle for Treasurer	1278937	Manuel B. Valle	6/14/07	\$5,525.00	\$5,525.00	\$5,525.00
11	Shawn Westcott	PEN1102	Shawn Westcott	6/18/07	\$100.00	\$100.00	\$100.00
12	Committee to Elect Vilma Guinto-Peoro Supervisor District #2	1291394	Vilma Guinto-Peoro	6/18/07	\$10.00	\$10.00	\$10.00
13	Bill Barnes for District 5	1265969	Alix Rosenthal	1/3/08	\$3,120	\$3,110	\$3,110
14	Care Not Cash	1244505	Ronald Jin	2/29/08	\$5,331	\$5,331	\$5,331
15	Omar Khalif for Board of Educ.	1287030	Omar Khalif	7/30/09	\$1,800	\$1,800	\$1,800
16	Myrna Lim for District 11 Sup	1306882	Myrna Lim	7/30/09	\$1,180	\$1,180	\$1,180

d. Electronic filing. On April 30, 2009 staff provided 60 days' notice that committees subject to the electronic filing requirements under section 1.112(b) will be required to file FPPC Forms 461 (Independent Expenditure Committee and Major Donor Committee Campaign Statement) and 465 (Supplemental Independent Expenditure Report) in electronic format starting July 1, 2009. Electronically filed forms and data will be made available to the public on the Ethics Commission's web site. This new electronic filing requirement is in addition to the paper filing

requirement. Forms 461 and 465 were added to the San Francisco Electronic Disclosure System (SFEDS) through the Commission's contract with Netfile.

4. Revenues report.

For FY 09-10, the Commission is budgeted to generate \$50,000 in revenues. As of October 14, 2009, the Commission received \$12,406 as summarized below. The figure represents collection of approximately 25 percent of expected revenues for FY 09-10.

Revenues Received as of October 14, 2009

Source	Budgeted Amount FY 09-10	Receipts
Lobbyist Fees	\$8,000	\$1,537
Other Ethics General	\$1,000	\$34
Campaign Finance Fines	\$22,000	\$5,200
Campaign Consultant Fees	\$15,000	\$3,250
Lobbyist Fines	\$1,000	\$150
Statements of Economic Interests Fines	\$1,000	\$1,380
Other Ethics Fines	\$1,000	\$855
Campaign Consultant Fines	\$1,000	
Total	\$50,000	\$12,406

5. Public financing/Campaign finance audit program.

Staff is working on audits of candidates who received public financing in 2008. Staff has provided training to candidates and treasurers involved in the 2009 election.

6. Lobbyist program.

As of October 8, 2009, there are 39 lobbyists registered with the Commission. In the 2009-2010 fiscal year, \$1,537.50 in lobbyist fees and \$150 in fines were collected, for a total of \$1,687.50. Two lobbyists have a positive credit toward future fees due to overpayment. These credits total \$150. The next filing deadline is October 15, 2009, for the third quarter of 2009.

The next filing deadline for lobbyists on behalf of the City is November 15, 2009, for the third quarter 2009 reporting period.

7. Campaign Consultant program.

As of October 7, 2009, 25 campaign consultants are active and registered with the Commission. \$3,250 in registration fees have been collected in the 2009-2010 fiscal year.

The deadline for the third quarter 2009 report was September 15, 2009. All active campaign consultants filed quarterly reports; one consultant filed late. The next quarterly report is due

Tuesday, December 15, 2009. Staff will mail reminder notices to all active campaign consultants two weeks prior to the deadline.

8. Statements of Economic Interests.

April 1 was the deadline for designated officers and employees to file their annual Statement of Economic Interests ("SEIs"). Staff continues to process incoming SEIs and Sunshine Ordinance Declarations, by logging them into a database and scanning them for upload to the Commission's website. A list of filers is viewable on the Commission's website.

The following table reflects annual statements filed as of October 13, 2009.

FORM	FILERS	TOTAL # OF FILERS
Statement of Economic Interests (SEI)	601	621

On May 6, 2009, staff issued 136 non-filer notices. On June 8, 2009, staff issued 48 second non-filer notices to those who were unresponsive to the first notice. On July 8, 2009 staff issued third non-filer notices to 33 non-filers who were unresponsive to the past two notices. As of October 13, 2009, 92 non-filers informed the Commission that they left office, 27 non-filers filed their annual SEIs, five stated that they hold a position that is not required to file with the Commission, one stated that the Annual SEI requirement does not apply to because the filer recently assumed office, and 11 non-filers remain nonresponsive.

Enforcement staff continues to audit departments for SEI filing compliance for both 2007 and 2008 calendar years. Staff is also reviewing all SEIs filed with the Commission.

9. Outreach and Education.

On Thursday, October 8, 2009, staff met with a delegation from the Republic of Moldova, a landlocked Eastern European country located between the Ukraine and Romania. The group, sponsored by the Institute of International Education, was interested in obtaining information about local governments.

On Tuesday, September 22, and Friday, September 25, 2009, staff conducted a Training for Treasurers of Non-Candidate Recipient Committees who were interested in fulfilling the training requirement under the Campaign Finance Reform Ordinance. The Training for Treasurers of Non-Candidate Recipient Committees covers campaign finance requirements for treasurers and representatives of general purpose committees, ballot measure committees, and primarily formed candidate committees. The training fulfills a requirement that new and existing treasurers—and assistant treasurers who sign and verify campaign statements—attend a training conducted by the Ethics Commission after filing an original or amended Statement of Organization designating a new treasurer. (See S.F. Campaign and Governmental Conduct § 1.107.)

On Friday, September 25, 2009, staff conducted a Candidates' Training which covered filing requirements for potential candidates for the City elective offices of City Attorney and Treasurer. This training focused on campaign finance requirements that apply to candidates for all City elective offices, focused on required forms for candidates.

The September 28, 2009 Lobbyist Ordinance Training was cancelled due to lack of interest. Another Lobbyist Ordinance Training will be offered in December 2009.

Ethics staff continues to offer trainings on conflict of interest laws and the Statements of Incompatible Activities (SIA) to City departments.

In addition to in person trainings, the staff has produced and posted the various web trainings on the Ethics Commission website under "Education." The following are trainings that are currently available on the website:

- Training for Treasurers of Non-Candidate Recipient Committees
- Building Inspection Commission, Access Appeals Commission, Board of Examiners and Unreinforced Masonry Building Appeals Board SIA Training
- Ethics Training for City Employees

Respectfully submitted,



John St. Croix
Executive Director

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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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CHAIRPERSON

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COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

EXECUTIVE DIRECTOR'S REPORT TO THE SAN FRANCISCO ETHICS COMMISSION For the Meeting of November 9, 2009

1. Staff Changes:

As I stated previously, the budget cutbacks mean that the Commission will be losing one of its permanent staff positions. In addition, due to civil service bumping rules, two members of our staff are also scheduled to lose their jobs. The date of these changes has been delayed until close of business November 29, 2009. It remains likely that combined with the changes in our enforcement and audit divisions, we will be working with several new staff in the coming months.

2. Investigation and enforcement program.

Since its last special meeting on October 19, 2009, the Commission has received one new complaint. There are currently 11 complaints pending in the Commission's jurisdiction.

Category	# of Complaints
Campaign Finance	5
Conflict of Interest	3
Governmental Ethics	1
Lobbyist Ordinance	0
Campaign Consultant Ordinance	0
Sunshine Ordinance	2
TOTAL	11

3. Campaign finance disclosure program.

a. Filing deadline. The next filing deadline is February 1, 2010 for the Second Semi-Annual statement, which covers the reporting period beginning the day after the closing date of the last statement filed, or January 1, 2009 through December 31, 2009. Several candidates have already expressed an interest in running for office in November 2010. Staff has been conducting outreach for such potential candidates. Outreach to potential candidates includes contacting and setting up a one-on-one appointment with the candidate and/or his or her treasurer to discuss campaign finance processes and requirements. The purpose of this outreach is to inform first-time candidates and treasurers of their filing obligations prior to them engaging in campaign finance activity.

b. Collection of late filing fees and contribution forfeitures. Campaign finance collections as of November 4 for FY 09-10 totaled \$5,025, based on filings made

during previous fiscal years and the current fiscal year. By comparison, campaign finance collections as of November 4 in prior fiscal years were as follows:

Fiscal year	Collections by Nov. 4	Total collections in FY
02-03	\$10,451	\$49,322
03-04	\$16,128	\$51,607
04-05	\$21,445	\$199,524
05-06	\$15,112	\$85,390
06-07	\$24,979	\$119,814
07-08	\$41,067	\$65,035
08-09	\$9,639	\$48,673

The \$5,025 amount is based on prior assessments as follows:

FY when assessed	Amount collected in 09-10
06-07	\$480.00
07-08	\$1,178.35
08-09	\$3,121.28
09-10	\$245.00
Total:	\$5,024.63

FY 08-09 waivers, as well as waivers from past years provided for comparison, are as follows:

FY when assessed	Amount assessed	Amount waived during FY
04-05	\$907,069	\$683,086
05-06	\$546,859	\$342,901
06-07	\$181,831	\$50,347
07-08	\$217,444	\$159,880
08-09	\$322,529	\$107,176
09-10	\$40,247	\$18,682

To date, the outstanding balance of late fees assessed from the current and previous years, including \$75,251 in fees that have been referred to the Bureau of Delinquent Revenues, is \$160,049, down from \$218,957 as last reported. Most of the recent drop in outstanding late fees is due to waivers issued regarding fee assessments made in FY 08-09.

The current outstanding balance of contribution forfeitures assessed as a result of the defective reporting of contributor information is \$26,334, down from \$70,918 as last reported. The \$26,334 amount consists of forfeitures from the 2005-2006 filing periods and does not include forfeiture assessments from the 2008 filing period. The large drop in outstanding forfeitures is due to recently issued waivers. All 2005-2006 filers with outstanding forfeitures received at least a partial waiver. The individual late fees and forfeitures are listed below.

Late fees & Forfeitures – 11.4.09 quarterly update

Late fees – Table 1

#	Name	Filer ID	Current balance (in \$)	Status (blank = not yet past-due)
1	Ahsha Safai for Supervisor	1305708	288.00	Past-due (\$120); \$168 due by 11/12/09
2	Alice B. Toklas Lesbian and Gay Democratic Club PAC	842018	680.43	
3	Bayard Fong for Board of Education	1290444	276.00	
4	Bayview Committee for Affordable Housing	1303906	17.50	
5	Bill Barnes For District 5	1265969	3,110.00	Collections
6	Bruce G. Windrem	PEN1188	30.00	Past-due
7	California Nurses Association PAC	780657	3,370.00	Waiver requested
8	Calvin Louie for Community College Board	1228806	10.00	Past-due
9	Care Not Cash	1244505	5,331.00	Collections
10	Clinton T. Reilly & Affiliated Entities	490376	4,500.00	
11	Coalition to Elect Chris Jackson to Community College Board	1302351	542.00	
12	Coalition to Elect Kim-Shree Maufas 4 School Board	1284567	6,603.89	Waiver requested
13	Coleman Action Fund for Children Committee	1311766	6,265.00	
14	Committee to Elect Claudine Cheng for District 3 Supervisor	1302226	5,772.50	
15	Committee to Elect Eli M. Horn	1305634	455.00	Past-due (\$80); \$375 due by 11/12/09
16	Committee to Elect M. Valle for Treasurer	1278937	5,525.00	Collections
17	Committee to Elect Rebecca Silverberg	1220430	21,086.00	Collections
18	Committee to Elect Vilma Guinto-Peoro Supervisor District #2	1291394	10.00	Collections
19	Committee to Keep MUNI Accountable - No on P	1309995	2,325.00	
20	Committee to Re-Elect Dr. Anita Grier	1243852	84.00	
21	Dana Walsh	PEN1249	60.00	Past-due
22	DeNunzio for Supervisor	1303336	5,985.00	
23	Edgar "David" Parker, Jr.	PEN608	200.00	Past-due
24	Elect Anthony Carrasco Sheriff	PEN1395	100.00	Past-due
25	Eric Mar for Supervisor	1302394	2,932.50	
26	Friends of Owen O'Donnell	1307894	18.00	
27	Housing Rights Association	1245525	100.00	Settlement payment schedule since 2006
28	James Ryan	PEN1293	100.00	Past-due
29	Jane Kim for School Board	1289332	98.00	
30	Janet Reilly	1276040	1,190.00	
31	Jaynry Mak for School Board	1311133	10.00	
32	Jill Wynns for School Board	961189	30.00	Past-due
33	Johnnie Carter for Community College Board	1226264	7,215.00	Collections (\$6,595); Past-due (\$620)
34	Josh H. Wolf	PEN1391	180.00	Past-due
35	Joshua Kriesel	PEN1289	100.00	Past-due
36	Mak 06	1287595	490.00	Past-due
37	Micheas Herman	PEN788	100.00	Collections
38	Myrna Viray Lim for Supervisor	1256697	3,855.00	Collections

#	Name	Filer ID	Current balance (in \$)	Status (blank = not yet past-due)
39	Myrna Lim for District 11 Supervisor	1306882	1,250.00	Collections (\$1,180); Past-due (\$70)
40	No on K, Committee Against Trafficking and Sexual Exploitation, Committee Against Proposition K	1310101	25.00	
41	No Military Recruitment in Our Schools - No on V	1308856	2,807.60	
42	Omar Khalif for School Board	1287030	1,800.00	Collections
43	Pat Lakey for Supervisor District 7	1255357	2,225.00	Waiver requested in 2004
44	People for Tony Hall	1298419	1,260.00	Payment schedule
45	Ramiro Maldonado, Jr.	PEN1291	100.00	Past-due
46	Re-Elect Milton Marks III	1266541	181.00	
47	Re-Elect Public Defender Jeff Adachi	1283538	1,000.00	Waiver requested
48	Rick Hauptman	PEN1281	100.00	Past-due
49	Rodney Hauge	PEN593	100.00	Past-due
50	Rodney Hauge	PEN1084	100.00	Past-due
51	San Franciscans for Fair & Honest Government	1258209	4,659.22	Collections
52	San Francisco Coalition for Responsible Growth - Political Action Committee	1306077	1,548.00	
53	San Francisco Tenants Union	PEN1367	1,060.00	Waiver requested
54	San Francisco Women's Political Committee	1243711	26,373.41	
55	SF Forward sponsored by San Francisco Chamber of Commerce (formerly San Francisco Chamber of Commerce 21 st Century Committee)	891575	980.00	
56	SEIU Local 87	PEN951	14,350.00	Collections
57	Shawn Westcott	PEN1102	100.00	Collections
58	Steve Feinstein	PEN1279	50.00	Past-due
59	Thomas D'Amato	PEN735	100.00	Past-due
60	Walter D. Armer	PEN1287	100.00	Past-due
61	Yes on C, Alcatraz Conversion Project	1302041	2,807.40	Payment schedule
62	Yes on K, Committee United for Safety and Protection	1304971	160.00	Waiver requested
63	Yes on Prop K	1312067	218.00	
64	Yick Tsun Society, Inc.	PEN1078	7,550.00	Collections
	Total:		160,049.45	

Forfeitures – Table 2¹

#	Name	Filer ID	Current balance (in \$)	Status (blank = not yet past-due)
1	Alix Rosenthal for Supervisor	1287650	240.00	
2	Bayard Fong for Board of Education	1290444	720.00	
3	Daly 06	1284226	550.00	
4	Dudum for Supervisor 2006	1287197	240.00	
5	Hydra Mendoza for School Board	1290372	590.00	
6	SF Forward sponsored by San Francisco Chamber of Commerce (formerly San Francisco Chamber of Commerce 21 st Century Committee)	891575	8,624.00	
7	Truth on Prop H - Concerned Citizens Against Prop H, Sponsored by: Small Property Owners of San	1292084	5,130.00	

¹ This table does not include forfeitures assessed from the 2008 reporting period.

#	Name	Filer ID	Current balance (in \$)	Status (blank = not yet past-due)
	San Francisco			
8	Yes on Proposition A, Let's Rebuild San Francisco's Schools	1290214	10,240.00	
		Total:	26,334.00	

c. Status of accounts to San Francisco Bureau of Delinquent Revenues (BDR). The following chart provides details on pending accounts referred to BDR:

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
1	Committee to Elect Rebecca Silverberg	1220430	Lucia Paulazzo	5/6/05	\$21,086.00	\$21,086.00	\$21,086.00
2	Yick Tsun Society, Inc.	PEN1078	Florence Fang	8/16/05	\$7,550.00	\$7,550.00	\$7,550.00
3	SEIU Local 87	PEN951	Mike Garcia & Michael Baratz	8/25/05	\$14,350.00	\$14,350.00	\$14,350.00
5	Johnnie Carter for Community College Board	1226264	Johnnie Carter	6/16/06	\$9,520.00	\$6,595.00	\$6,595.00
7	Micheas Herman	PEN788	Micheas Herman	6/26/06	\$100.00	\$100.00	\$100.00
8	San Franciscans for Fair & Honest Government	1258209	Erik Howell	10/20/06	\$4,659.22	\$4,659.22	\$4,659.22
9	Myrna Viray Lim for District 11 Supervisor	1256697	Jia Jun Chen	4/27/07	\$3,855.00	\$3,855.00	\$3,855.00
10	Committee to Elect M. Valle for Treasurer	1278937	Manuel B. Valle	6/14/07	\$5,525.00	\$5,525.00	\$5,525.00
11	Shawn Westcott	PEN1102	Shawn Westcott	6/18/07	\$100.00	\$100.00	\$100.00
12	Committee to Elect Vilma Guinto-Peoro Supervisor District #2	1291394	Vilma Guinto-Peoro	6/18/07	\$10.00	\$10.00	\$10.00
13	Bill Barnes for District 5	1265969	Alix Rosenthal	1/3/08	\$3,120	\$3,110	\$3,110
14	Care Not Cash	1244505	Ronald Jin	2/29/08	\$5,331	\$5,331	\$5,331
15	Omar Khalif for Board of Educ.	1287030	Omar Khalif	7/30/09	\$1,800	\$1,800	\$1,800
16	Myrna Lim for District 11 Sup	1306882	Myrna Lim	7/30/09	\$1,180	\$1,180	\$1,180

d. Electronic filing. On April 30, 2009 staff provided 60 days' notice that committees subject to the electronic filing requirements under section 1.112(b) will be required to file FPPC Forms 461 (Independent Expenditure Committee and Major Donor Committee Campaign Statement) and 465 (Supplemental Independent Expenditure Report) in electronic format starting July 1, 2009. Electronically filed forms and data will be made available to the public on the Ethics Commission's web site. This new electronic filing requirement is in addition to the paper filing requirement. Forms 461 and 465 were added to the San Francisco Electronic Disclosure System (SFEDS) through the Commission's contract with Netfile.

4. Revenues report.

For FY 09-10, the Commission is budgeted to generate \$50,000 in revenues. As of November 4, 2009, the Commission received \$13,382 as summarized below. The figure represents collection of approximately 26 percent of expected revenues for FY 09-10.

Revenues Received as of November 4, 2009

Source	Budgeted Amount FY 09-10	Receipts
Lobbyist Fees	\$8,000	\$1,781
Other Ethics General	\$1,000	\$43
Campaign Finance Fines	\$22,000	\$5,623
Campaign Consultant Fees	\$15,000	\$3,300
Lobbyist Fines	\$1,000	\$400
Statements of Economic Interests Fines	\$1,000	\$1,380
Other Ethics Fines	\$1,000	\$855
Campaign Consultant Fines	\$1,000	
Total	\$50,000	\$13,382

5. Public financing/Campaign finance audit program.

Staff is working on audits of candidates who received public financing in 2008. Staff has provided training to candidates and treasurers involved in the 2009 election.

6. Lobbyist program.

As of October 29, 2009, there are 39 lobbyists registered with the Commission. In the 2009-2010 fiscal year, \$1,781.25 in lobbyist fees and \$400.00 in fines have been collected, for a total of \$2,181.25. The third quarter 2009 filing deadline was October 15, 2009. All registered lobbyists filed; and staff released the Third Quarter Summary of Lobbyist Activity on October 29, 2009.

The next filing deadline for lobbyists on behalf of the City is November 15, 2009, for the third quarter 2009 reporting period.

7. Campaign Consultant program.

As of November 4, 2009, twenty-five campaign consultants are active and registered with the Commission. \$3,300.00 in registration fees have been collected in the 2009-2010 fiscal year. The next quarterly report is due December 15, 2009. Staff will send reminder notices to all active campaign consultants two weeks prior to the deadline.

8. Statements of Economic Interests.

April 1 was the deadline for designated officers and employees to file their annual Statement of Economic Interests ("SEIs"). Staff continues to process incoming SEIs and Sunshine Ordinance Declarations, by logging them into a database and scanning them for upload to the Commission's website. A list of filers is viewable on the Commission's website.

The following table reflects annual statements filed as of November 4, 2009.

FORM	FILERS	TOTAL # OF FILERS
Statement of Economic Interests (SEI)	601	620

On May 6, 2009, staff issued 136 non-filer notices. On June 8, 2009, staff issued 48 second non-filer notices to those who were unresponsive to the first notice. On July 8, 2009 staff issued third non-filer notices to 33 non-filers who were unresponsive to the past two notices. As of November 4, 2009, 93 non-filers informed the Commission that they left office, 27 non-filers filed their annual SEIs, five stated that they hold a position that is not required to file with the Commission, one stated that the Annual SEI requirement does not apply to because the filer recently assumed office, and 10 non-filers remain nonresponsive.

Enforcement staff continues to audit departments for SEI filing compliance for both 2007 and 2008 calendar years. Staff is also reviewing all SEIs filed with the Commission.

9. Outreach and Education.

On Thursday, October 22, 2009, staff met the Amabat Erdenebat, Head of the Investigation Department and Commissioner of the Independent Authority Against Corruption of Mongolia. Mr. Amarat was sponsored by the Institute of International Education, which designs and implements professional programs and provides cultural activities and home hospitality opportunities for foreign leaders, specialists and international scholars participating in the Department of State's International Visitor Leadership Program.

On November 2, staff met with a delegation of representatives of governmental and non-governmental organizations in Tanzania and Uganda. The delegation of 10 visitors, along with two translators, was invited to the United States under the Department of State's International Visitor Leadership Program to explore the U.S. election system and government. The meeting was an opportunity for them to observe the activities of grassroots citizen action groups that interact with elected officials to influence political, social and economic change at the municipal, state and national level; and to obtain information about the role and structure of ethics in government in the U.S. and the principles underlying transparency and accountability.

On November 3, 2009, staff met with the managing editor and reporters from Mission Local, a project of the Ford Foundation and UC Berkeley School of Journalism. The group was interested in gathering information about the City's departments, boards and commissions.

Ethics staff continues to offer trainings on conflict of interest laws and the Statements of Incompatible Activities (SIA) to City departments including the Department of Children, Youth, and Their Families.

In addition to in person trainings, the staff has produced and posted the various web trainings on the Ethics Commission website under "Education." The following are trainings are currently available on the website:

- Training for Treasurers of Non-Candidate Recipient Committees
- Building Inspection Commission, Access Appeals Commission, Board of Examiners and Unreinforced Masonry Building Appeals Board SIA Training
- Ethics Training for City Employees

Respectfully submitted,



John St. Croix
Executive Director

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DRAFT
Minutes of the Regular Meeting of
The San Francisco Ethics Commission
November 9, 2009
Room 408, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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I. Call to order and roll call.

Chairperson Studley called the meeting to order at 5:33 p.m.

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COMMISSION MEMBERS PRESENT: Jamienne Studley, Chairperson; Emi Gusukuma, Commissioner; Eileen Hansen, Commissioner; Charles Ward, Commissioner. Commissioner Harriman was excused.

STAFF PRESENT: John St. Croix, Executive Director; Richard Mo, Chief Enforcement Officer; Catherine Argumedo, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Andrew Shen, Deputy City Attorney.

OTHERS PRESENT: David Pilpel.

MATERIALS DISTRIBUTED:

- Notice and Agenda for the November 9, 2009 Regular Meeting
- Memorandum from Executive Director to Ethics Commission re: Proposed Amendments to Investigations and Enforcement
- Draft Regulations for Investigations and Enforcement Proceedings
- Memorandum from Executive Director to Ethics Commission re: Policy Priorities Discussion at the October 19, 2009 meeting, October 14, 2009
- E-mail from Executive Director to Commissioners re: Policy Priorities Discussion, November 5, 2009
- E-mail from Commissioner Hansen re: Policy Priorities Discussion, November 8, 2009
- Draft Minutes of the September 14, 2009 Regular Meeting
- Draft Minutes of the October 19, 2009 Special Meeting
- Executive Director's Report to the Ethics Commission for the Meeting of October 19, 2009
- Executive Director's Report to the Ethics Commission for the Meeting of November 9, 2009

II. Public comment on matters appearing or not appearing on the agenda that is within the jurisdiction of the Ethics Commission.

None.

III. Consideration of possible amendments to the Commission's Regulations for Investigations and Enforcement Proceedings ("Regulations").

Chairperson Studley stated that there has been an amended memorandum from staff, which has been made available to the public, with minor changes to the first page only. Chief Enforcement Officer Mo confirmed the changes were made to the first page only.

Decision Point 2A

Chairperson Studley stated that decision point 2A referred to section IV.A. (Preliminary Review.), starting on page 4 of the draft Regulations.

Commissioner Hansen stated her concern regarding the use of the word "may" in the second sentence. She stated that the word "may" would allow the Executive Director to do none of what was listed in the second sentence and was not sure how to address that issue. Executive Director St. Croix stated that, under normal circumstances, staff would do as much as possible. Mr. St. Croix stated an example of a complainant using a coded message from Life magazine and how there may not be a need to speak with a Respondent. Mr. St. Croix also stated that there are cases where waiting to speak with a Respondent may be more useful for the investigation. Commissioner Ward stated that the section requires the Executive Director to conduct a preliminary review. Chairperson Studley stated that the basis of the complaint may be obvious and so the investigation may move forward quickly.

Motion 09-11-09-1 (Gusukuma/Ward) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt Decision Point 2A, as drafted.

Public Comment:

David Pilpel stated there was once an important article in Life magazine about Joe Alioto.

In section IV.B., page 4 of the regulations, Commissioner Hansen noted a typographical error in the 4th line of section IV.B on page 4 of the Regulations.

Decision Point 2B:

Chairperson Studley stated that staff has provided four options for guidance regarding the standard for dismissal in section IV.B.1 of the Regulations. Commissioner Ward stated his choice was "c" – "credible evidence clearly refutes the allegations" – and that "credible" should be defined. Deputy City Attorney Shen stated that the definition would be the same as the ordinary, common sense definition. Commissioner Ward stated his preference to create an objective, rather than subjective, definition. DCA Shen asked the Commissioners to return to this item after he had a chance to bring some reference materials from his office. Chairperson Studley asked the Commissioners what burden each Commissioner would prefer. Mr. St. Croix stated that choices "a" and "c" were not mutually exclusive. Commissioner Hansen proposed combining both "a" and "c" in order to give the strongest standard possible. Commissioner Gusukuma asked how the standard would be stronger if it was either "a" or "c." Commissioner Hansen stated that the standard could be "a" and/or "c," as she was hoping to include both possibilities. DCA Shen returned to the meeting and stated that there were two definitions in Webster's dictionary: 1. "offering reasonable grounds for being believed" and 2. "of sufficient

capability to be militarily effective.” DCA Shen then read the definition from Black’s Law Dictionary: “worthy of belief” or “entitled to credit.” Commissioner Ward stated his preference for the first definition from Webster’s dictionary. Chairperson Studley stated the Commission could add the definition of “credible” to the definition section of the Regulations. Commissioner Hansen asked whether “credible” is defined somewhere else in the Code or Charter. DCA Shen stated he was not aware of any definitions for “credible” in either the Code or Charter.

Motion 09-11-09-2 (Hansen/Ward) Moved, seconded and withdrawn that the Commission adopt Decision Point 2B, combining the language of options “a” and “c” – “credible evidence does not support the allegations and/or clearly refutes the allegations.”

Commissioner Gusukuma stated her preference for accepting “c” alone as the standard. She stated that the threshold would be higher with “c.” Commissioner Hansen stated her concern that a complaint could be dismissed too early if the Commission chose “c” alone as the standard. Commissioner Gusukuma stated that the only instance where a complaint would be dismissed under the “c” standard would be if there was clear evidence refuting the allegation. Commissioner Hansen withdrew her motion.

Motion 09-11-09-3 (Hansen/Ward) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt “c” – “credible evidence clearly refutes the allegations” – as the language for section IV.B.1. of the Regulations.

Public Comment:

Mr. Pilpel stated that he had suggested option “c” at the last meeting. He suggested adding a monthly summary, including the reason for dismissal. He also noted a grammatical issue in the first paragraph on page 5 of the Regulations. Chairperson Studley stated that the Commission would discuss the grammatical issue later.

Chairperson Studley then discussed adding the definition of “credible” in the definition section of the Regulations. She stated that “credible” would be section II.E., following “complainant,” and all other definitions would be re-numbered. DCA Shen read the definition: “offering reasonable grounds for being believed.”

Motion 09-11-09-4 (Ward/Gusukuma) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt the definition of “credible” in section II.E of the Regulations.

Public Comment:

Mr. Pilpel asked whether adding this definition would require new notice, as it was not mentioned in the agenda. DCA Shen stated that it was within the scope of the notice for this meeting.

Chairperson Studley then addressed a grammatical issue in the first paragraph on page 5. She suggested that the sentence read, “...no further action on the complaint, except that he or she may...” rather than the text in the draft Regulations. Chairperson Studley suggested making the change throughout the remainder of the Regulations.

Motion 09-11-09-5 (Studley/Ward) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt the amendment of the language to “except that he or she may” in section IV.B. and all other similar places in the Regulations.

Public Comment:

None.

Decision point 2C

Motion 09-11-09-6 (Gusukuma/Hansen) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt the amendments as written, without discussion.

Public Comment:

None.

Decision point 2D

Chairperson Studley asked for clarification regarding the reference of 14 calendar days and 10 business days. DCA Shen stated that the Charter defines the standard, which mentions both 14 calendar and 10 business days. He then briefly described the complaint process. He stated that when the Commission receives a complaint, the complaint is forwarded to the City Attorney (“CA”) and District Attorney (“DA”). Mr. Shen stated that the CA and DA have 10 days to review the complaint and otherwise notify the Commission of their action or non-action. He then stated that at that point, the Commission has an additional 14 days from the CA’s and DA’s notifications to contact the complainant of the steps the Commission plans to take on the complaint. Mr. St. Croix proposed changing the text to “if neither CA or DA intend to pursue an investigation, the Executive Director shall, within 14 days of such notification, inform the complainant...” Commissioner Gusukuma accepted the change as a friendly amendment to her motion. Commissioner Hansen seconded the amended motion.

Motion 09-11-09-7 (Gusukuma/Hansen) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt Decision Point 2D, as amended.

Public Comment:

Mr. Pilpel stated that the CA and DA have 10 business days to notify and after hearing from CA or DA, or 10 days have elapsed, then there is a new trigger for 14 days. He asked why the Regulations read “if the Executive Director has not informed the complainant...” if in the previous sentence the Regulations states “the Executive Director shall inform.” Mr. Pilpel then stated that the language “the action, if any, that he or she has taken or plans to take on the complaint” is vague.

Chairperson Studley stated that the motion has been made and revised and that Mr. Pilpel had made some additional comments. DCA Shen stated that the language from this section mentioned by Mr. Pilpel (section IV.C. of the Regulations) came from the Charter.

Decision Point 15

Executive Director St. Croix stated that this decision point is more of a drafting error. He stated that the Commission cannot treat Sunshine Ordinance complaints from the Sunshine Ordinance Task Force ("SOTF") differently than those filed directly with our office. He stated that all Sunshine Ordinance complaints must be treated the same, regardless of where they are initially filed. Commissioner Gusukuma asked if the Commission would treat Sunshine Ordinance complaints in an open manner, from beginning to end. Mr. St. Croix stated that probable cause hearings for Sunshine Ordinance complaints will be in open session. Commissioner Gusukuma asked whether the fact that a Sunshine Ordinance complaint was made would be open. Mr. St. Croix stated that it would not be open, but referrals from SOTF would be open. Chairperson Studley asked whether there could be violations of the Sunshine Ordinance that are not willful violations. Mr. St. Croix stated that SOTF should forward only willful violations and SOTF disagrees. Commissioner Hansen asked why the Commission could treat Sunshine Ordinance complaints differently than others. DCA Shen stated that the Charter's confidentiality provisions do not conflict with staff's proposed amendments to the Regulations. Commissioner Hansen stated that the proposed approach differs from what has occurred in the past and suggested putting this item on hold until hearing from SOTF. DCA Shen stated that he thought SOTF would support the amendments since this process would be more open. Chairperson Studley stated that there were still outstanding issues to discuss with SOTF.

Motion 09-11-09-8 (Gusukuma/Ward) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt Decision Point 15.

Public Comment:

Mr. Pilpel stated that referrals from SOTF are not the same as a complaint filed with the Commission. He stated that the Commission may choose to treat a referral as a complaint, but the two are not the same. He stated that a referral is either confidential because it is a complaint, by operation of the Charter, or it is not confidential; therefore, the Commission should create a new process in the Regulations. He suggested postponing this issue until discussing the issue with SOTF.

Mr. St. Croix stated that all ongoing investigations are confidential. Mr. Pilpel stated that there is a distinction between referrals and someone who may file a complaint (regarding a Sunshine Ordinance violation) that does not want the probable cause hearing made public. DCA Shen reiterated his prior explanation to Commissioner Hansen's question. He also noted that it would not be the last opportunity for the Commission to discuss these issues.

Commissioner Hansen stated that although she voted aye, she was not comfortable with her vote. She stated that the Commission needs more input from SOTF. Chairperson Studley stated that she and the Executive Director would reach out to SOTF again and explain why the Commission chose to take action.

Decision point 16

Motion 09-11-09-9 (Gusukuma/Hansen) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt Decision Point 16, without discussion.

Public Comment:

None.

Decision Point 17

Motion 09-11-09-10 (Gusukuma/Hansen) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt Decision Point 17, without discussion.

Public Comment:

None.

Commissioner Hansen stated that she had a question about language in the Regulations that was not in any Decision Point.

Decision Points 18-24

Motion 09-11-09-11 (Gusukuma/Hansen) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt Decision Points 18-24, amending Decision Point 20 (eliminating “or allegation”).

Public Comment:

Mr. Pilpel asked about the reference on page 5 for a monthly summary of dismissals. He asked whether it was possible to have more information about dismissals than what is in the current chart available to the public, but without revealing anything confidential.

Chairperson Studley stated that the report is a desirable and possibly useful piece of information, but that the requirement would not be something to create at this meeting.

Commissioner Gusukuma asked about the 3rd line of section XI.D on page 14, which was part of Decision Point 20. She suggested removing the word “allegation.” The Commissioners agreed and Commissioner Gusukuma amended her motion. Commissioner Hansen seconded the amendments.

Public Comment:

Mr. Pilpel agreed with the Commission’s amendment to Decision Point 20.

Commissioner Hansen proposed a change in section III.D of the Regulations, complaints made at public meetings. She suggested adding “and shall explain the process” to the end of the second sentence. Commissioner Ward stated that Commission staff accepts complaints in writing and this section seems to read that a member of the public is not permitted to come to a meeting and complain. Commissioner Hansen amended her proposal and then moved to delete the item.

Motion 09-11-09-12 (Hansen/Gusukuma) Moved, seconded and passed (4-0; Harriman absent) that the Commission delete section III.D. (Complaints Made at Public Meetings) from the Regulations.

Public Comment:

Mr. Pilpel suggested providing brochures regarding filing complaints at all Commission meetings. He then suggested stating that a stipulated order is a public document in section XIV.D.

Decision point 25

Motion 09-11-09-13 (Hansen/Gusukuma) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt Decision Point 25, without discussion.

Public Comment:

None.

IV. Policy Priorities.

Mr. St. Croix stated that he had copies of the e-mail he sent last week and also had copies of an e-mail he received from Commissioner Hansen regarding the policy priorities. Mr. St. Croix stated he discussed the priorities with Commissioner Harriman. Commissioner Hansen stated that she made her own list of suggestions. She proposed combining education and communication with the general public and adding conflicts of interest. Commissioner Ward asked why conflict of interest could not be included under enforcement. He added that the Commission should set the priorities earlier in the year. Mr. St. Croix stated that, even though there was no current priority list, the Commission has made significant accomplishments during the past few months. Commissioner Hansen suggested having a retreat. Chairperson Studley suggested the following order for the policy priorities: 1. Education and Communication with the general public, 2. Enforcement, 3. Campaign Finance, 4. Conflicts of Interest, and 5. Campaign Consultant Ordinance.

Motion 09-11-09-14 (Hansen/Ward) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt the Commission's top five policy priorities, as suggested by Chairperson Studley.

Public Comment:

Mr. Pilpel asked to see the e-mails the Commissioners were using a reference. He suggested calendaring topics within these priorities in the future. He also suggested providing calendar topics months in advance, if possible. Commissioner Studley stated that the Commission will calendar and discuss these topics more thoroughly.

V. Minutes of the Commission's regular meeting of September 14, 2009 and special meeting of October 19, 2009.

September 14, 2009 minutes

Commissioner Hansen asked how the Commission would get new information, if there were any required updates, as in the Executive Director's report. Mr. St. Croix stated that staff would notify him when changes would need to be made to the reports.

Motion 09-11-09-15 (Gusukuma/Ward) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt the draft minutes of the September 14, 2009 meeting, as amended.

Public Comment:

Mr. Pilpel noted typographical errors.

October 19, 2009 minutes

Commissioner Studley noted a typographical error on page 5.

Motion 09-11-09-16 (Hansen/Gusukuma) Moved, seconded and passed (4-0; Harriman absent) that the Commission adopt the draft minutes of the October 19, 2009 meeting, as amended.

Public Comment:

Mr. Pilpel stated his belief that he commented after Item VII of the October meeting and asked that staff include his comments into the minutes.

VI. Executive Director's report.

Executive Director St. Croix stated that the amendments to the Lobbyist Ordinance and Campaign Finance Reform Ordinance ("CFRO") have been passed by the full Board of Supervisors. He also stated that the measures to extend the ban on contracting with the City, under section 3.222 of CFRO, to elected officials and department heads has been adopted unanimously by the Rules Committee and is expected to go to the full Board of Supervisors.

He stated that section 1.126 of CFRO, mentioned by Commissioner Hansen under policy priorities, should be discussed as there has been interest in the community. He stated that staff visited with Supervisor Mirkarimi and he would like to work with the Ethics Commission on this issue. Mr. St. Croix stated that Supervisor Mirkarimi's staff will review staff's proposal and give the Commission input, in order to send a proposal to the full Board.

Mr. St. Croix then noted that there will be a number of system upgrades made to the Commission's website during the weekend of Thanksgiving. He stated that the website will be down for a few days, but ultimately everything on the website will run faster and better. He stated that the Lobbyist Ordinance changes are expected to be on time and running at the beginning of 2010. He stated that there will be one more quarterly report for lobbyists before the monthly reporting begins in January 2010.

Commissioner Hansen asked about a discrepancy in the number of total filers (621) and non-responsive filers (11), from the Statement of Economic Interests section on page 5 of the October Executive Director's report. Mr. St. Croix stated that 10 filers have been contacted and are therefore not called "non-responsive" and that there are 11 filers who have not responded at all. Commissioner Hansen asked how many attempts are made to contact filers before they are considered "non-responsive." Mr. St. Croix stated that staff mails two letters and makes at least

one phone call. Mr. St. Croix stated that the Commission will need to make a policy decision regarding enforcement for non-filers next year.

Commissioner Hansen then asked about the "Campaign Finance Disclosure Program," from the November report. She asked whether this information could be more visible on the Commission's website. She stated that there are people on the list who are elected officials or who are running of office or who are about to announce a run for office. She suggested that these people in particular should make an extra effort and that these people would create an extra interest for the public.

Public Comment:

Mr. Pilpel stated that the Commission used to have a 5-6 month advance calendar so that the public would be aware of when certain topics were to be discussed at certain Commission meetings. He suggested that the Commission resume that practice. He also suggested creating a "hall of shame" for people Commissioner Hansen mentioned earlier.

VII. Items for future meetings.

Chairperson Studley stated that items named as policy priorities will be items for discussion at future meetings. Commissioner Hansen asked to discuss posting items from the "Campaign finance disclosure program" chart (from the Executive Director's report) onto the Commission's website. She also asked for a report on how the Commission would continue to engage SOTF in discussions.

Public Comment:

Mr. Pilpel noted a typographical error in the October 2009 meeting minutes. He also thanked staff for its work in the most recent election.

VIII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.

None.

IX. Adjournment.

Motion 09-11-09-17 (Gusukuma/Hansen) Moved, seconded and passed (4-0; Harriman absent) that the Commission adjourn.

Public Comment:

None.

Meeting adjourned at 8:13 PM.

Respectfully submitted,

Catherine Argumedo

Ethics Commission



25 Van Ness Ave., Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

**SAN FRANCISCO ETHICS COMMISSION
NOTICE OF REGULAR MEETING**

December 14, 2009 5:30 P.M.

and AGENDA

Room 408 City Hall

1 Dr. Carlton B. Goodlett Place, San Francisco

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- 114/109
- I. Call to order and roll call.
- II. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.
- III. Netfile contract renewal. On October 31, 2007, the Ethics Commission entered into a three-year contract with Netfile under which Netfile would create an online filing system and database for all campaign finance, lobbyist, campaign consultant and official financial disclosures required or permitted under City or state law to be filed in electronic form. Staff recommends that the Commission authorize the Executive Director to extend the contract for an additional three-year term. To meet Civil Service Commission requirements, the Commission will determine whether contracting is the most effective way to provide this service. (Discussion and possible action.)
- IV. Consideration of possible regulations to implement Lobbyist Ordinance. Amendments to the Lobbyist Ordinance were recently signed into law and will take effect on January 1, 2010. The Commission will consider whether to change the existing regulations and/or adopt new regulations to implement the changes to the Ordinance. A staff memo and copy of the proposed regulation changes will be available at the Commission office as well as on the Commission website. (Discussion and possible action.)
- V. Consideration of possible regulations to implement the Campaign Finance Reform Ordinance (CFRO). Amendments to the CFRO were recently signed into law and will go into effect on January 1, 2010. The Commission will consider whether to amend and/or adopt new regulations to implement the changes to the Ordinance. A staff memo and copy of the proposed regulation changes will be available at the Commission office as well as the Commission website. (Discussion and possible action.)
- VI. Budget discussion. The Commission has submitted the requested \$85,000 in mid-year cuts for this fiscal year. For the next fiscal year, the City has forecasted a \$522 million general fund deficit and has instructed departments to identify a 20 percent

cut as well as a 10 percent contingency cut, which translates to \$438,364 and \$219,182, respectively. Commissioners will discuss budget issues and proposals to provide guidance to the staff in preparing the budget submission for FY 2010/2011. (Discussion and possible action.)

VII. Closed session. (Discussion and possible action.)

a. Closed session held pursuant to the Ralph Brown Act, Government Code section 54957(b) and the Sunshine Ordinance section 67.10(b): Public Employee Performance Evaluation: Executive Director, Ethics Commission

b. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9 (a) and (c) and Sunshine Ordinance section 67.10(d) to discuss existing litigation as defendant.

Conference with Legal Counsel: Existing litigation as defendant

Number of cases: 2

Myrna Lim v. City and County of San Francisco Ethics Commission et al., Case No. 08-472073 (S.F. Superior Court); Myrna Lim v. City and County of San Francisco Ethics Commission et al., Case No. 09-5083-CRB (U.S. District Court, N.D. Cal.)

Allen Grossman v. San Francisco Ethics Commission et al., Case No. 09-509868 (S.F. Superior Court)

VIII. Discussion and vote regarding closed session action and deliberations. (Discussion and possible action.)

a. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose any action taken or discussions held in closed session regarding public employee performance evaluation.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: public employee performance evaluation.

b. Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose any action taken or discussions held in closed session regarding existing litigation.

Motion: The Ethics Commission finds that it is in the best interests of the public (not) to disclose its closed session deliberations re: existing litigation.

IX. Minutes of the Commission's regular meeting of November 9, 2009. (Discussion and possible action.)

- X. **Executive Director's Report.** An update of important Ethics Commission staff activities since the previous monthly meeting. (Discussion.)
- XI. **Items for future meetings.** Commissioners may propose items for future agendas and the Commission may determine the priority of these items. (Discussion.)
- XII. **Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission.**
- XIII. **Adjournment.**

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at suff@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

If any materials related to an item on this agenda have been distributed to the Ethics Commission after distribution of the agenda packet, those materials are available for public inspection at the Ethics Commission, 25 Van Ness Avenue, Suite 220, San Francisco, during normal office hours.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing devices.

This location is wheelchair accessible. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity, or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals.

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Governmental Conduct. Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102; telephone (415) 252-3100; fax (415) 252-3112 and web site www.sfgov.org/ethics

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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

AMIEENNE S. STUDLEY
CHAIRPERSON

Date: December 8, 2009

SUSAN J. HARRIMAN
VICE-CHAIRPERSON

To: Members, Ethics Commission

EMI GUSUKUMA
COMMISSIONER

From: John St. Croix, Executive Director
By: Steven Massey, Information Technology Officer

EILEEN HANSEN
COMMISSIONER

Re: Contracting for the Electronic Filing System

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

The Commission currently has a three-year contract with Netfile to provide an electronic filing system for campaign finance, lobbyist, campaign consultant and conflict of interest regulation. To contract out for professional services, the Commission obtained approval from the Civil Service Commission (CSC). In order to renew the contract, the Commission must again seek approval from the CSC. The current CSC approval to contract out for professional services will expire on September 30, 2010. When reviewing a request to contract out for professional services, the CSC takes into consideration whether the Commission has formally determined that contracting out is the most effective way to provide the electronic filing system. Staff is presenting this matter to the Commission for its consideration at this time in order to account for the time it takes for a contract to be approved by all parties in the City.

Staff recommends that the Commission endorse the proposal that contracting out is the most effective way to provide the electronic filing system. Netfile delivered on an ambitious deployment schedule to replace the Commission's previous On-Line Filing System (OLFS). Staff believes that Netfile went beyond contract specifications and invested a significant number of hours and resources at no additional cost to the Commission to meet requests and needs as they arose from staff, filers, and members of the public. The Commission has also invested significant time into building an electronic filing infrastructure with Netfile's system that is shared by jurisdictions statewide. Netfile is still the only vendor in California that offers a complete electronic filing system solution for agencies that is capable of meeting and that does meet the Commission's needs. For these reason, staff recommends that the Commission find that contracting out is the most effective way of providing an electronic filing system. The remainder of this memo provides some background on the Netfile contract and its implementation to date. Staff will be pleased to respond to any questions that Commissioners may have at the December 14 meeting.

Background

From 1999 through 2007, the Department of Technology (DT) provided an electronic filing system, called the On-line Filing System (OLFS), for the Commission to file the Fair Political Practices Commission (FPPC) Form 460. At the February 12, 2007 meeting, a representative from the DT informed the Commission that the DT would terminate support for the OLFS because the DT could no longer provide support for its software architecture and that building a new system to replace the OLFS would be a prohibitive financial investment.

At the April 9, 2007 meeting, the Commission endorsed staff's recommendation to contract out for an electronic filing service. On August 20, 2007, the Commission received approval from the CSC to contract out for electronic filing services. On October 31, 2007, the Commission entered into a contractual agreement with Netfile to provide the Commission with an electronic filing system and develop additional services and capabilities.

Contract Update

During the first two years of the contract, the Commission staff worked with Netfile to make substantial improvements in electronic filing system services. Significant accomplishments include:

- New forms in electronic format including FPPC Form 461, 465, 496 and 497 and the Statement of Economic Interests (SEI);
- Electronic filing of lobbyist reports to start in 2010.
- Public access to:
 - The Commission's filing records database, including a catalog of over 31,000 paper and electronic records for candidates, campaign committees, lobbyist, campaign consultant, and conflict of interest filings;
 - Over 10,000 scanned paper filings and 5,500 electronic filings;
 - A complete database download of all original and amended campaign finance transactions filed since 1998. This provides the public with the same transaction report and data used by Commission audit staff;
 - All campaign finance electronic filings in their original submission format;
 - Searchable transactions within five types of electronically filed FPPC forms;
 - Filing records that can be browsed by election and race; and
 - Filer/Non-Filer lists for conflict of interest forms including the Statement of Economic Interests.

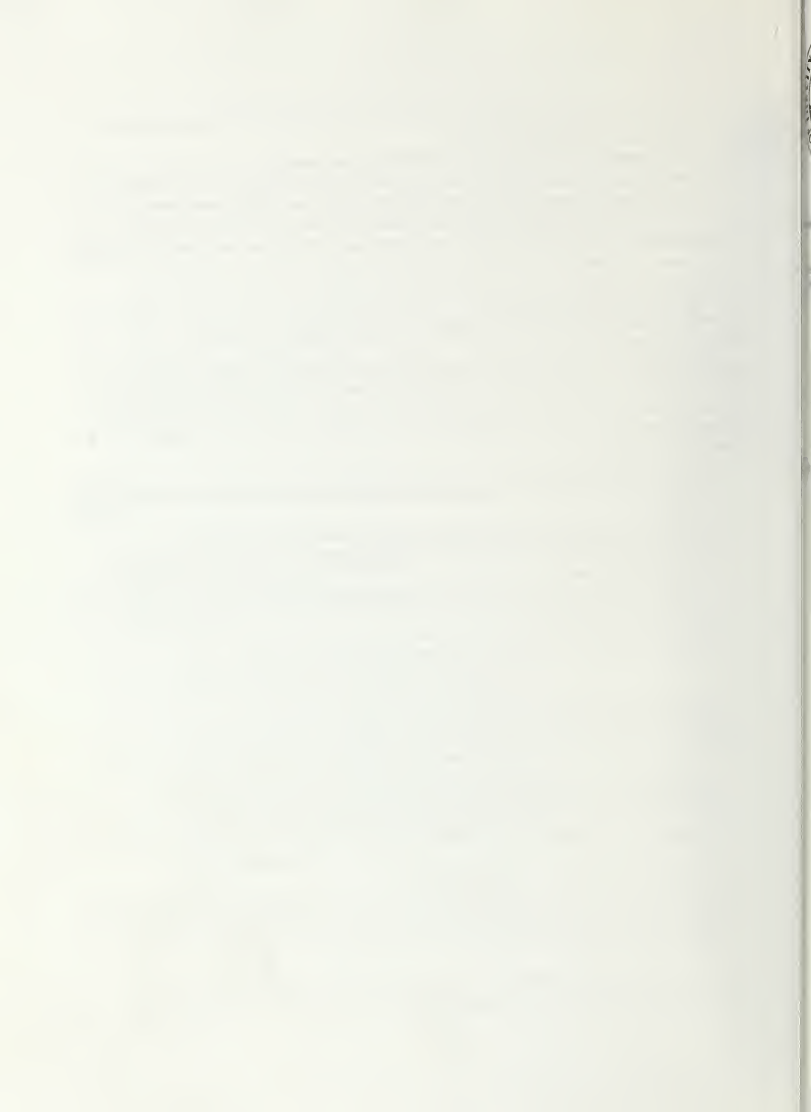
On March 29, 2007, Commission staff held an interested persons meeting to solicit feedback for features that would be desirable to include in a new electronic filing system. The Commission and Netfile have addressed the following requests from treasurers and members of the public:

- Automate the calculation of summary and cumulative totals on campaign finance forms;
- Transfer transactions to applicable reporting periods and forms such that they need only be entered once;

- Tools to increase filer entry accuracy by storing contacts and connecting multiple transactions by the same individual;
- Make paper FPPC and local forms viewable on the Internet;
- Provide a spreadsheet download in a format accessible to members of the public and other institutions interested in reprocessing the data. Commission staff and Netfile worked to help facilitate a regular data transfer to the University of San Francisco's campaign finance web site project. It is also accessible from the new "DataSF" City-data catalog web site;
- Increase transparency of data stored off-site by making the filing records database accessible on the Internet; and
- Comply with existing Secretary of State electronic filing format standards.

There are currently 19 other California jurisdictions that use Netfile's electronic filing system, which has proven mutually beneficial to all the jurisdictions. The new electronic forms and many of the additional features added through the Commission's contract have benefitted local jurisdictions statewide. In turn, the Commission gained features at the request of other jurisdictions including:

- Secure encrypted access for campaign finance filers when accessing their electronic filing accounts;
- A new staff management system built from input from multiple jurisdictions;
- Tracking cumulative contribution totals from affiliated entities in the campaign finance filer application; and
- Upgrades to the SEI filing system to assist filers with completing the form accurately and viewing previous filings.





ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

MIENNE S. STUDLEY
CHAIRPERSON

SUSAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: December 9, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director
By: Mabel Ng, Deputy Executive Director

Re: Regulations Implementing Lobbyist Ordinance

Amendments to the Lobbyist Ordinance, which the Ethics Commission approved at several meetings earlier this year, have been signed into law and will take effect on January 1, 2010. The changes simplify the Ordinance such that there is only one type of lobbyist: any individual who receives or is promised \$3,000 or more within three consecutive calendar months and, on behalf of the persons providing the economic consideration, makes any lobbying contact with a City officer. See S.F. Campaign and Governmental Conduct Code (C&GC Code) § 2.105(g). The changes also enable the Commission to adopt an online filing system, which staff anticipates will be unveiled in schedule in January. In order to implement the changes, staff recommends that the Commission consider deleting two of three existing regulations and approving four new regulations.

Regulations adopted by the Commission shall become effective 60 days after their adoption unless before the expiration of the 60-day period, two-thirds of all members of the Board of Supervisors vote to veto the regulation. S.F. Charter § 15.102.

I. Existing Regulations under Lobbyist Ordinance

Set forth below in this section are three existing regulations that implement the Lobbyist Ordinance. For the reasons discussed below, staff recommends that the Commission delete two of them and make no changes to the remaining one.

Regulation 2.110(a)-1: Time for Registration

Each individual or entity that qualifies as a lobbyist pursuant to [the Lobbyist Ordinance] shall register with the Ethics Commission before contacting City officers, or making payments to influence local legislative or administrative action, and in any event no later than 10 days after the date of qualification.

New San Francisco Campaign and Governmental Conduct Code ("C&GC Code") section 2.110(a) requires lobbyists to register with the Ethics Commission "no later than five business days of qualifying as a lobbyist, but the lobbyist shall register prior to

making any additional contacts with an officer of the City and County of San Francisco.” Because the Ordinance now explicitly sets the deadline for registration, the regulation is no longer necessary. Accordingly, staff recommends that current Regulation 2.110(a)-1 be deleted.

Decision Point 1:

Shall the Commission delete Ethics Commission Regulation 2.100(a)-1?

Ethics Commission Regulation 2.145(a)-1: Holidays and Weekends Not Included in Calculation of Certain Late Fines

In calculating the number of days late for which a late fine will be assessed under Campaign and Governmental Conduct Code section 2.145(a), when a filing deadline falls on the day before a weekend or holiday, the Commission will not count any weekend days or holiday that immediately follow the filing deadline. For purposes of this regulation, the term “weekend” means Saturday and Sunday and the term “holiday” means any holiday on which the Ethics Commission is authorized by law to close.

Current Regulation 2.145(a)-1, set forth above, was approved by the Ethics Commission on November 15, 2002. Staff recommends no changes to Regulation 2.145(a)-1.

Decision Point 2:

Shall the Commission make any changes to Ethics Commission Regulation 2.145(a)-1?

Ethics Commission Regulation 2.160(c)-1: Holidays and Weekends Not Included in Calculation of Certain Late Fines

In calculating the number of days late for which a late fine will be assessed under Campaign and Governmental Conduct Code section 2.160(c), when a filing deadline falls on the day before a weekend or holiday, the Commission will not count any weekend days or holiday that immediately follow the filing deadline. For purposes of this regulation, the term “weekend” means Saturday and Sunday and the term “holiday” means any holiday on which the Ethics Commission is authorized by law to close.

Regulation 2.160(c)-1, set forth above, was also approved by the Ethics Commission on November 15, 2002. C&GC Code section 2.160, which dealt specifically with the electronic filing of statements and reports, was deleted by the recently adopted Lobbyist Ordinance amendments. For this reason, and because current Regulation 2.145(a)-1 provides the same information regarding the calculation of certain late fines, staff recommends deletion of Regulation 2.160(c)-1.

Decision Point 3:

Shall the Commission delete Ethics Commission Regulation 2.160(c)-1?

II. Proposed New Regulations

Under new C&GC Code section 2.105(d)(1)(Q), the following is not a contact for the purposes of the Ordinance:

A person communicating, on behalf of a labor union representing City employees, regarding the establishment, amendment, or interpretation of a collective bargaining agreement or memorandum of understanding with the City, or communicating about a management decision regarding the working conditions of employees represented by a collective bargaining agreement or a memorandum of understanding with the City.

It is implicit in this exception that all other lobbying contacts by labor unions *are* contacts for the purposes of the Lobbyist Ordinance. Indeed, on page 6 of staff's March 4, 2009 memo regarding proposed section 2.105(d)(1)(Q), staff explained:

staff recommends adding language to provide that a communication by a labor union relating to a collective bargaining agreement or a memorandum of understanding with the City is not a contact. *Communications by a labor union with City officers regarding other matters would be considered a contact (emphasis added).*

To avoid any confusion, staff proposes that the Commission adopt a regulation to codify that intent: a person who is paid to represent a labor union and contacts a City officer on any legislative or administrative matter that does not relate to the working conditions of employees represented by a collective bargaining agreement or memorandum of understanding should qualify as a lobbyist. Thus, for example, a person paid by a labor union to lobby members of the Board of Supervisors regarding a universal health care or land use priorities would be making contacts for the purpose of the Lobbyist Ordinance. Staff's proposed regulation is:

Proposed Regulation 2.104(d)(1)(Q)-1:

A person communicating with a City officer on behalf of a labor union to influence a decision regarding a legislative or administrative matter other than the working conditions of employees represented by a collective bargaining agreement or memorandum of understanding with the City is making a contact under the Ordinance.

Decision Point 4:

Shall the Commission approve proposed Regulation 2.104(d)(1)(Q)-1?

Under new C&GC Code section 2.110(b), at the time of initial registration, each lobbyist must report to the Commission certain information such as the lobbyist name, address and telephone number. Staff recommends that the Commission adopt a regulation to require a lobbyist to provide a digital color photograph of the lobbyist's head and shoulders. The photograph will be posted on the Commission's webpage and would help City officers and others to identify registered lobbyists. The state requires lobbyists to provide photos; see <http://cal-access.ss.ca.gov/Lobbying/Lobbyists/Detail.aspx?id=1287375&session=2009>. For a visual, attached at the end of this memo is a mock-up of the SF lobbyist web site for viewing lobbyist data where staff used a lobbyist's photo at a lobbyist e-filing IP meeting. Staff's proposed regulation is:

Proposed Regulation 2.110(b)-1:

At the time of registration with the Ethics Commission, the lobbyist must supply a digital color photograph of the lobbyist's head and shoulders. The photograph must be delivered via email or compact disc and must be recent and of professional quality.

Decision Point 5:

Shall the Commission approve proposed Regulation 2.110(b)-1?

Under new C&GC Code section 2.110(d), the Commission is authorized to establish procedures to permit the registration and filing of lobbyist disclosures by a business, firm, or organization on behalf of the individual lobbyists employed by those businesses, firms, or organizations. Staff recommends that the Commission adopt a regulation allowing businesses, firms or organizations to register and submit lobbyist disclosures on behalf of their employees. Staff's proposed regulation is:

Proposed Regulation 2.110(d)-1:

A business, firm or organization may register and submit reports on behalf of individual lobbyists who are employed by the business, firm or organization. Such business, firm or organization must comply with the provisions of Section 2.110 regarding registration and disclosures.

Decision Point 6:

Shall the Commission approve proposed Regulation 2.110(d)-1?

A primary impetus for adoption of the amendments to the Lobbyist Ordinance was to enable the Commission to require lobbyists to register and submit reports online. Staff recommends that the Commission adopt a regulation that clarifies the online filing requirement. Staff's proposed regulation is:

Proposed Regulation 2.140(a)-1:

Under Chapter 1, Article 2 of the Campaign and Governmental Conduct Code ("Lobbyist Ordinance"), each individual lobbyist must register with the Ethics Commission and submit information required under the Lobbyist Ordinance using the Commission's online filing system.

Decision Point 7:

Shall the Commission approve proposed Regulation 2.140(a)-1?

Search

Clients

Lobbyists

Firm/Employer

Filed Statements

Transaction Activity

Client Payments

Activity Expenses

Reported Contacts

Contributions Made

Lobbyist Details



Joe Lobbyist

Employer: Kaster, Fanning & Buntz Law Offices

Clients: Clipper Wind Power

Enertech

GE Wind Energy

Green Mountain Energy Company

Lorax Energy

Mitsubishi

Norwin

Siemens

SunWize Solar

Vestas

Activity by Year: 2007

Reported Contacts: 10

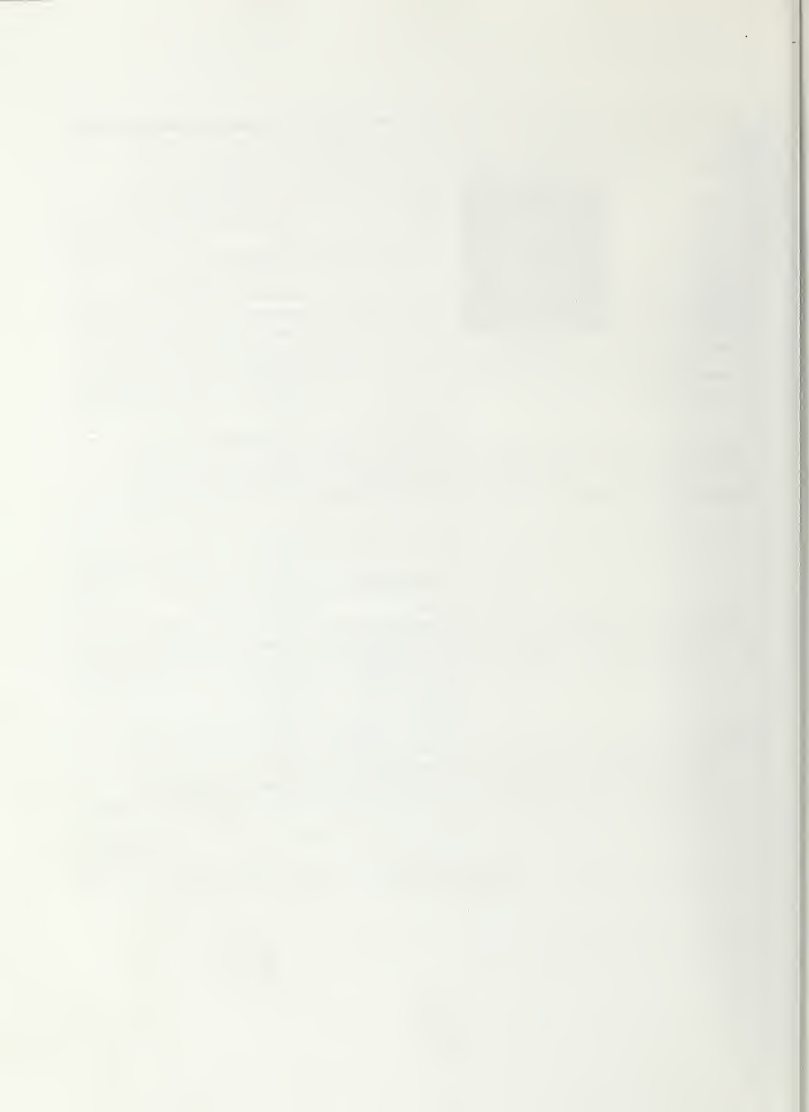
Client Payments: \$4,000,000.00

Total Activity Expenses: \$100,000.00

Total Contributions: \$2,000,000.00

E-Filed Statements for 2007:

Period	Filed
01/01/2007 - 01/31/2007	02/05/2007
02/01/2007 - 02/28/2007	03/05/2007
03/01/2007 - 03/31/2007	04/05/2007
04/01/2007 - 04/30/2007	05/05/2007
Amended	05/10/2007
05/01/2007 - 05/31/2007	06/05/2007
06/01/2007 - 06/30/2007	07/05/2007
07/01/2007 - 07/31/2007	08/05/2007
08/01/2007 - 08/31/2007	09/05/2007
Amended	09/13/2007
09/01/2007 - 09/30/2007	10/05/2007
10/01/2007 - 10/31/2007	11/05/2007
Amended	11/06/2007
11/01/2007 - 11/30/2007	12/05/2007
12/01/2007 - 12/31/2007	01/05/2008



CHAPTER 1: REGULATION OF LOBBYISTS

(amendments operative January 1, 2010)

Sec. 2.100. Findings.

Sec. 2.105. Definitions.

Sec. 2.110. Registration of Lobbyists Required; Registration, Reregistration, Quarterly Reports; Fees; Client Authorization; Termination.

Sec. 2.115. Prohibitions.

Sec. 2.116. Lobbyist Training

Sec. 2.117. Lobbying by Campaign Consultants.

Sec. 2.120. Employment of City and County Officers or Employees; Appointment of Employee to City and County Office.

Sec. 2.130. Employment of Unregistered Persons.

Sec. 2.135. Filing Under Penalty of Perjury; Retention of Documents.

Sec. 2.140. Powers and Duties of the Ethics Commission.

Sec. 2.145. Administrative and Civil Enforcement and Penalties.

Sec. 2.150. Limitation of Actions.

Sec. 2.155. Severability.

SEC. 2.100. FINDINGS.

(a) The Board of Supervisors finds that public disclosure of the identity and extent of efforts of lobbyists to influence decision-making regarding local legislative and administrative matters is essential to protect public confidence in the responsiveness and representative nature of government officials and institutions. It is the purpose and intent of the Board of Supervisors to impose reasonable registration and disclosure requirements to reveal information about lobbyists' efforts to influence decision-making regarding local legislative and administrative matters.

(b) Corruption and the appearance of corruption in the form of campaign consultants exploiting their influence with City officials on behalf of private interests may erode public confidence in the fairness and impartiality of City governmental decisions. The City and County of San Francisco has a compelling interest in preventing corruption or the appearance of corruption which could result in such erosion of public confidence. Prohibitions on campaign consultants lobbying current and former clients will protect public confidence in the electoral and governmental processes. It is the purpose and intent of the people of the City and County of San Francisco in enacting this Chapter to prohibit campaign consultants from exploiting or appearing to exploit their influence with City officials on behalf of private interests.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 28-04, File No. 031656, App. 2/20/2004; Ord. 235-09, File No. 090833, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.520; added by Ord. 19-99, App. 2/19/99)

SEC. 2.105. DEFINITIONS.

Whenever used in this Chapter, the following words and phrases shall have the definitions provided in this Section:

(a) "Activity expenses" means any expense incurred or payment made by a lobbyist or a lobbyist's client at the behest of the lobbyist, or arranged by a lobbyist or a lobbyist's client at the behest of the lobbyist, which benefits in whole or in part any: officer of the City and County; candidate for City and County office; aide to a member of the Board of Supervisors; or member

of the immediate family or the registered domestic partner of an officer, candidate, or aide to a member of the Board of Supervisors. An expense or payment is not an "activity expense" unless it is incurred or made within three months of a contact with the officer, candidate, or Supervisor's aide who benefits from the expense or payment, or whose immediate family member or registered domestic partner benefits from the expense or payment. "Activity expenses" include honoraria, consulting fees, salaries, and any other thing of value totaling more than \$25 in value in a consecutive three-month period, but do not include political contributions.

(b) "Candidate" shall have the same meaning as set forth in Section 1.104 of this Code.

(c) "Client" means the person for whom benefit lobbyist services are performed by a lobbyist.

(d) "Contact" means communication, oral or written, including communication made through an agent, associate or employee, for the purpose of influencing local legislative or administrative action.

(1) The following activities are not "contacts" within the meaning of this Chapter.

(A) A representative of a news media organization gathering news and information or disseminating the same to the public, even if the organization, in the ordinary course of business, publishes news items, editorials or other commentary, or paid advertisements, that urge action upon local legislative or administrative matters;

(B) A person providing oral or written testimony that becomes part of the record of a public hearing; provided, however, that if the person making the appearance or providing testimony has already qualified as a lobbyist under this Chapter and is appearing or testifying on behalf of a client, the lobbyist's testimony shall identify the client on whose behalf the lobbyist is appearing or testifying;

(C) A person performing a duty or service that can be performed only by an attorney, an architect, or a professional engineer licensed to practice in the State of California, including any communication by an attorney in connection with litigation involving the City and County or a claim filed pursuant to Administrative Code Section 10.20-1 et seq.;

(D) A person making a speech or producing any publication or other material that is distributed and made available to the public, through radio, television, cable television, or other medium of mass communication;

(E) A person providing written information in response to an oral or written request made by an officer of the City and County, provided that the written information is a public record available for public review;

(F) A person providing oral or written information pursuant to a subpoena, or otherwise compelled by law or regulation;

(G) A person providing oral or written information in response to a request for proposals, request for qualifications, or other similar request, provided that the information is directed to the department or official specifically designated in the request to receive such information;

(H) A person submitting a written petition for local legislative or administrative action, provided that the petition is a public record available for public review;

(I) A person making an oral or written request for a meeting, or any other similar administrative request, if the request does not include an attempt to influence local legislative or administrative action;

(J) A person appearing before an officer of the City and County pursuant to any procedure established by law or regulation for levying an assessment against real property for the construction or maintenance of an improvement;

- (K) A person providing purely technical data, analysis, or expertise in the presence of a registered lobbyist;
 - (L) A person distributing to any officer of the City and County any regularly published newsletter or other periodical which is not primarily directed at influencing local legislative or administrative action;
 - (M) A person disseminating information or material on behalf of an organization or entity to all or a significant segment of the organization's or entity's employees or members;
 - (N) A person communicating in connection with the administration of an existing contract between the person and the City and County of San Francisco. For purposes of this Subsection, communication, "in connection with the administration of an existing contract" includes, but is not limited to, communication regarding: insurance and bonding; contract performance and/or default; requests for in-scope change orders; legislative mandates imposed on contractors by the City and County; payments and invoicing; personnel changes; prevailing wage verification; liquidated damages and other penalties for breach of contract; audits; assignments; and subcontracting. Communication "in connection with the administration of an existing contract" does not include communication regarding new contracts, or out-of-scope change orders;
 - (O) A person negotiating the terms of a contract after being selected to enter into a contract with the City and County through a competitive bidding process, or as otherwise permitted under the Administrative Code;
 - (P) A person appearing as a party or a representative of a party in an administrative adjudicatory proceeding before a City agency or department; and
 - (Q) A person communicating, on behalf of a labor union representing City employees, regarding the establishment, amendment, or interpretation of a collective bargaining agreement or memorandum of understanding with the City, or communicating about a management decision regarding the working conditions of employees represented by a collective bargaining agreement or a memorandum of understanding with the City.
- (2) The following activities are not "contacts" for the purpose of determining whether a person qualifies as a "lobbyist," but are "contacts" for purpose of disclosures required by this Chapter:
- (A) A person providing oral information to an officer of the City and County in response to an oral or written request made by that officer;
 - (B) A person making an oral or written request for the status of an action; and
 - (C) A person participating in a public interested persons meeting, workshop, or other forum convened by a City agency or department for the purpose of soliciting public input.
- (e) "Economic consideration" means any payments, fees, reimbursement for expenses, gifts, or anything else of value, provided that "economic consideration" does not include salary, wages or benefits furnished by a federal, state or local government agency.
- (f) "Gift" shall be defined as set forth in the Political Reform Act, Government Code Section 81000 et seq., and the regulations adopted thereunder.
- (g) "Lobbyist" means any individual who:
- (1) receives or is promised economic consideration of \$3,000 or more within three consecutive calendar months for lobbyist services; and
 - (2) on behalf of the persons providing the economic consideration, makes any contact with an officer of the City and County.

(h) "Lobbyist services" means services rendered for the purpose of influencing or attempting to influence local legislative or administrative action, including but not limited to contacts with officers of the City and County of San Francisco.

(i) "Local legislative or administrative action" includes, but is not limited to, the drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting or denial by any officer of the City and County of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement to use or contract.

(j) "Measure" shall have the same meaning as set forth in Section 1.104 of this Code.

(k) "Officer of the City and County" means any officer identified in San Francisco Administrative Code Section 1.50, as well as any official body composed of such officers. In addition, for purposes of this Chapter, "officer of the City and County" includes (1) members of the Board of Education, Community College Board, Housing Authority, Redevelopment Agency, and Transportation Authority, as well as any official body composed of such officers, (2) the Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and (5) the Bureau Chief of the Department of Public Works' Bureau of Street Use and Mapping.

(l) "Person" means an individual, partnership, corporation, association, firm, labor union or other organization or entity, however organized.

(m) "Public hearing" means any open, noticed proceeding.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 280-08, File No. 081285, App. 12/5/08; Ord. 235-09, File No. 090833, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.521; added by Ord. 19-99, App. 2/19/99)

SEC. 2.110. REGISTRATION AND DISCLOSURES; FEES; TERMINATION OF REGISTRATION.

(a) **REGISTRATION OF LOBBYISTS REQUIRED.** Lobbyists shall register with the Ethics Commission and comply with the disclosure requirements imposed by this Chapter. Such registration shall occur no later than five business days of qualifying as a lobbyist, but the lobbyist shall register prior to making any additional contacts with an officer of the City and County of San Francisco.

(b) **REGISTRATION.** At the time of initial registration each lobbyist shall report to the Ethics Commission the following information:

(1) The name, business address, e-mail address, and business telephone number of the lobbyist;

(2) The name, business address, and business telephone number of each client for whom the lobbyist is performing lobbyist services;

(3) The name, business address, and business telephone number of the lobbyist's employer, firm or business affiliation; and

(4) Any other information required by the Ethics Commission consistent with the purposes and provisions of this Chapter.

(c) **LOBBYIST DISCLOSURES.** For each calendar month, each lobbyist shall submit the following information no later than the fifteenth calendar day following the end of the month:

(1) The name, business address and business telephone number of each person from whom the lobbyist or the lobbyist's employer received or expected to receive economic consideration to influence local legislative or administrative action during the reporting period;

- (2) The name of each officer of the City and County of San Francisco with whom the lobbyist made a contact during the reporting period;
- (3) The date on which each contact was made;
- (4) The local legislative or administrative action that the lobbyist sought to influence, including, if any, the title and file number of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement, or contract, and the outcome sought by the client;
- (5) The client on whose behalf each contact was made;
- (6) The amount of economic consideration received or expected by the lobbyist or the lobbyist's employer from each client during the reporting period;
- (7) All activity expenses incurred by the lobbyist during the reporting period, including the following information:
 - (A) The date and amount of each activity expense;
 - (B) The full name and official position, if any, of the beneficiary of each activity expense, a description of the benefit, and the amount of the benefit;
 - (C) The full name of the payee of each activity expense if other than the beneficiary;
 - (D) Whenever a lobbyist is required to report a salary of an individual pursuant to this Subsection, the filer lobbyist need only disclose whether the total salary payments made to the individual during the reporting period was less than or equal to \$250, greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or equal to \$10,000, or greater than \$10,000.

(28) All political contributions of \$100 or more made or delivered by the lobbyist or the lobbyist's employer, or made by a client at the behest of the lobbyist or the lobbyist's employer during the reporting period to an officer of the City and County, a candidate for such office, a committee controlled by such officer or candidate, or a committee primarily formed to support or oppose such officer or candidate, or any committee primarily formed to support or oppose a ballot measure to be voted on only in San Francisco. This report shall include such political contributions arranged by the lobbyist, or for which the lobbyist acted as an agent or intermediary.

The following information regarding each political contribution shall be submitted to the Ethics Commission:

- (A) The amount of the contribution;
- (B) The name of the contributor;
- (C) The date on which the contribution was made;
- (D) The contributor's occupation;
- (E) The contributor's employer, or if self-employed, the name of the contributor's business; and
- (F) The committee to which the contribution was made.
- (9) For each contact at which a person providing purely technical data, analysis, or expertise was present, as described in section 2.105(d)(1)(K), the name, address, employer and area of expertise of the person providing the data, analysis or expertise.
- (10) Any amendments to the lobbyist's registration information required by subsection (b).
- (11) Any other information required by the Ethics Commission consistent with the purposes and provisions of this Chapter.

(d) REGISTRATION AND FILING OF DISCLOSURES BY ORGANIZATIONS. The Ethics Commission is authorized to establish procedures to permit the registration and filing of

lobbyist disclosures by a business, firm, or organization on behalf of the individual lobbyists employed by those businesses, firms, or organizations.

(e) FEES; TERMINATION OF REGISTRATION.

(1) At the time of registration each lobbyist shall pay a fee of \$500. On or before every subsequent February 1, each registered lobbyist shall pay an additional fee of \$500.

(2) Failure to pay the annual fee by February 1 shall constitute a termination of a lobbyist's registration with the Ethics Commission. The Ethics Commission is also authorized to establish additional processes for the termination of a lobbyist's registration.

(3) The Ethics Commission shall waive all registration fees for any full-time employee of a tax-exempt organization presenting proof of the organization's tax-exempt status under 26 U.S.C. section 501(c)(3) or 501(c)(4).

(4) The Ethics Commission shall deposit all fees collected pursuant to this Section in the General Fund of the City and County of San Francisco.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 129-03, File No. 030250, App. 5/30/2003; Ord. 235-09, File No. 090833, App. 11/10/2009)(Derivation: Former Administrative Code Section 16.522; added by Ord. 40-88, App. 2/18/88; amended by Ord. 386-95, App. 12/14/95; Ord. 390-97, App. 10/17/97; Ord. 19-99, App. 2/19/99)

SEC. 2.115. PROHIBITIONS.

(a) **GIFT LIMIT.** No lobbyist shall make gifts to an officer of the City and County that have a fair market value of more than \$25, except for those gifts that would qualify for one of the exemptions under section 3.216(b) of this Code and its implementing regulations.

(b) **FUTURE EMPLOYMENT.** No lobbyist shall cause or influence the introduction or initiation of any local legislative or administrative action for the purpose of thereafter being employed or retained to secure its granting, denial, confirmation, rejection, passage or defeat.

(c) **FICTITIOUS PERSONS.** No lobbyist shall contact any officer of the City and County in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(d) **EVASION OF OBLIGATIONS.** No lobbyist shall attempt to evade the obligations imposed by this Chapter through indirect efforts or through the use of agents, associates or employees.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; Ord. 235-09, File No. 090833, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.523; added by Ord. 19-99, App. 2/19/99)

SEC. 2.116. LOBBYIST TRAINING.

Each lobbyist must complete a lobbyist training session offered by the Ethics Commission within one year of the lobbyist's initial registration. Thereafter, lobbyists shall attend additional training sessions as required by the Executive Director, at his or her discretion.

(Added by Ord. 235-09, File No. 090833, App. 11/10/2009)

SEC. 2.117. LOBBYING BY CAMPAIGN CONSULTANTS.

(a) **PROHIBITION.** No campaign consultant, individual who has an ownership interest in the campaign consultant, or an employee of the campaign consultant shall communicate with any officer of the City and County who is a current or former client of the campaign consultant on

behalf of another person or entity (other than the City and County) in exchange for economic consideration for the purpose of influencing local legislative or administrative action.

(b) EXCEPTIONS.

(1) This prohibition shall not apply to:

(A) an employee of a campaign consultant whose sole duties are clerical; or

(B) an employee of a campaign consultant who did not personally provide campaign consulting services to the officer of the City and County with whom the employee seeks to communicate in order to influence local legislative or administrative action.

(2) The exceptions in Subsection (b)(1) shall not apply to any person who communicates with an officer of the City and County in his or her capacity as an employee of the campaign consultant who is prohibited by Subsection (a) from making the communication.

(c) DEFINITIONS. Whenever the following words or phrases are used in this Section, they shall mean:

(1) "Campaign Consultant" shall have the same meaning as in Article I, Chapter 5, Section 1.505 of this Code.

(2) "Campaign consulting services" shall have the same meaning as in Article I, Chapter 5, Section 1.505 of this Code.

(3) "Current client" shall mean a person for whom the campaign consultant has filed a client authorization statement pursuant to Article I, Chapter 5, Section 1.515(d) of this Code and not filed a client termination statement pursuant to Article I, Chapter 5, Section 1.515(f) of this Code. If such person is a committee as defined by Section 82013 of the California Government Code, the current client shall be any individual who controls such committee; any candidate that such committee was primarily formed to support; and any proponent or opponent of a ballot measure that the committee is primarily formed to support or oppose.

(4) "Employee" shall mean an individual employed by a campaign consultant, but does not include any individual who has an ownership interest in the campaign consultant that employs them.

(5) "Former client" shall mean a person for whom the campaign consultant has filed a client termination statement pursuant to Article I, Chapter 5, Section 1.515(f) of this Code within the 60 months prior to communicating with the person.

(Added by Ord. 28-04, File No. 031656, App. 2/20/2004; amended by Ord. 239-08, File No. 080162, App. 10/30/2008; Ord. 235-09, File No. 090833, App. 11/10/2009)

SEC. 2.120. EMPLOYMENT OF CITY AND COUNTY OFFICERS OR EMPLOYEES; APPOINTMENT OF EMPLOYEE TO CITY AND COUNTY OFFICE.

(a) EMPLOYMENT OF CITY AND COUNTY OFFICERS OR EMPLOYEES. If any lobbyist employs or requests, recommends or causes a client of the lobbyist to employ, and such client does employ, any officer of the City and County, any immediate family member or registered domestic partner of an officer of the City and County, or any person known by such lobbyist to be a full-time employee of the City and County, in any capacity whatsoever, the lobbyist shall file within 10 days after such employment a statement with the Ethics Commission setting out the name of the employee, the date first employed, the nature of the employment duties, and the salary or rate of pay of the employee.

(b) APPOINTMENT OF EMPLOYEE TO CITY OFFICE. If an employee of a lobbyist is appointed to City or County office, the lobbyist shall file within 10 days after such appointment a

statement with the Ethics Commission setting out the name of the employee, the date first employed, the nature of the employment duties, and the salary or rate of pay of the employee.

(c) **REPORT OF SALARY.** Whenever a filer is required to report the salary of an employee who is also an officer or employee of the City and County pursuant to this Section, the filer need only disclose whether the total salary payments made to the employee are less than or equal to \$250, greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or equal to \$10,000, or greater than \$10,000.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 16.524; added by Ord. 40-88, App. 2/18/88; amended by Ord. 386-95, App. 12/14/95; Ord. 19-99, App. 2/19/99)

SEC. 2.125.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; deleted by Ord. 235-09, File No. 090833, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.525; added by Ord. 19-99, App. 2/19/99)

SEC. 2.130. EMPLOYMENT OF UNREGISTERED PERSONS.

It shall be unlawful knowingly to pay any lobbyist to contact any officer of the City and County of San Francisco, if said lobbyist is required to register under this Chapter and has not done so by the deadlines imposed in this Chapter.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; Ord. 235-09, File No. 090833, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.526; added by Ord. 40-88, App. 2/18/88; amended by Ord. 19-99, App. 2/19/99)

SEC. 2.135. FILING UNDER PENALTY OF PERJURY; RETENTION OF DOCUMENTS.

All information required under this Chapter shall be submitted to the Ethics Commission, in the format designated by the Commission. The lobbyist shall verify, under penalty of perjury, the accuracy and completeness of the information provided under this Chapter. The lobbyist shall retain for a period of five years all books, papers and documents necessary to substantiate the registration and disclosure reports required by this Chapter.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; Ord. 235-09, File No. 090833, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.527; added by Ord. 40-88, App. 2/18/88; amended by Ord. 386-95, App. 12/14/95; Ord. 19-99, App. 2/19/99)

SEC. 2.140. POWERS AND DUTIES OF THE ETHICS COMMISSION.

(a) The Ethics Commission shall prescribe the format for the submission of all information required by this Chapter.

(b) Upon request by the Board of Supervisors or the Mayor, the Ethics Commission shall compile the information submitted pursuant to this Chapter and forward a report of the compiled information to the Board of Supervisors and the Mayor within thirty days of receipt of the request.

(c) Upon request by the Board of Supervisors or the Mayor, the Ethics Commission shall file a report with the Board of Supervisors and the Mayor on the implementation of this Chapter within thirty days of receipt of the request.

(d) The Ethics Commission shall preserve all original reports, statements, and other records required to be kept or filed under this Chapter for a period of five years. Such reports, statements, and records shall constitute a part of the public records of the Ethics Commission and shall be open to public inspection.

(e) The Ethics Commission shall provide formal and informal advice regarding the duties under this Chapter of a person or entity pursuant to the procedures specified in San Francisco Charter Section C3.699-12.

(f) The Ethics Commission shall have the power to adopt all reasonable and necessary rules and regulations for the implementation of this Chapter pursuant to Charter Section 15.102.

(g) The Ethics Commission shall conduct quarterly workshops concerning the laws relating to lobbying.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; Ord. 235-09, File No. 090833, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.528; added by Ord. 40-88, App. 2/18/88; amended by Ord. 386-95, App. 12/14/95; Ord. 19-99, App. 2/19/99)

SEC. 2.145. ADMINISTRATIVE AND CIVIL ENFORCEMENT AND PENALTIES.

(a) If any lobbyist fails to submit any information required by this Chapter after any applicable deadline, the Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter, impose a late filing fee of \$50 per day after the deadline until the information is received by the Ethics Commission. The Executive Director of the Ethics Commission may reduce or waive a late filing fee if the Executive Director Commission determines that the late filing was not willful and that enforcement will not further the purposes of this Chapter. If such reduction or waiver equals or exceeds \$500, the Executive Director shall notify the Commission of his or her determination. Thereafter, any two or more members of the Commission may cause the reduction or waiver to be calendared for consideration by the full Commission in open session at the next Commission meeting occurring no sooner than ten days from the date the Executive Director informs the Commission of the Executive Director's recommendation. A Commissioner's request that a reduction or waiver be calendared must be received by the Executive Director no fewer than five days prior to the date of the meeting, so that the Executive Director may comply with the applicable notice and agenda requirements. The Ethics Commission shall deposit funds collected under this Section in the General Fund of the City and County of San Francisco.

(b) Any person who knowingly or negligently violates this Chapter, including but not limited to, by providing inaccurate or incomplete information regarding lobbying activities, may be liable in an administrative proceeding before the Ethics Commission pursuant to Charter section C3.699-13. In addition to the administrative penalties set forth in the Charter, the Ethics Commission may issue warning letters regarding potential violations of this Chapter.

(c) Any person or entity which knowingly or negligently violates this Chapter may be liable in a civil action brought by the City Attorney for an amount up to \$5,000 per violation, or three times the amount not properly reported, or three times the amount given or received in excess of the gift limit, whichever is greater.

(d) In investigating any alleged violation of this Chapter the Ethics Commission and City Attorney shall have the power to inspect, all documents required to be maintained under this Chapter. This power to inspect documents is in addition to other powers conferred on the Ethics Commission and City Attorney by the Charter or by ordinance, including the power of subpoena.

(e) Should two or more persons be responsible for any violation under this Chapter, they may be jointly and severally liable. If a business, firm or organization registers or files lobbyist disclosures on behalf of its employees pursuant to section 2.110(d), the business, firm or organization may be held jointly and severally liable for any failure to disclose its employees' lobbying activities.

(f) The City Attorney may also bring an action to revoke for up to one year the registration of any lobbyist who has knowingly violated this Chapter.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 129-03, File No. 030250, App. 5/30/2003; Ord. 235-09, File No. 090833, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.529; added by Ord. 40-88, App. 2/18/88; amended by Ord. 399-94, App. 11/23/94; Ord. 386-95, App. 12/14/95; Ord. 390-97, App. 10/17/97; Ord. 19-99, App. 2/19/99; Ord. 129-03, File No. 030250, App. 5/30/2003)

SEC. 2.150. LIMITATION OF ACTIONS.

(a) No civil action shall be brought to enforce this Chapter unless brought within four years after the date the cause of action accrued or the date that the facts constituting the cause of action were discovered by the City Attorney. For the purpose of this subsection, a civil action is brought when the City Attorney files the action in a court of law.

(b) No administrative action alleging a violation of this Chapter and brought under Charter section C3.699-13 shall be brought more than four years after the date of events which form the basis of the complaint, or the date that the events constituting the basis of the complaint were discovered by the Ethics Commission. For the purpose of this subsection, a complaint is brought by the Executive Director of the Ethics Commission upon the date of service of the probable cause report.

(c) A civil action brought to enforce or collect penalties or late filing fees imposed under this Chapter shall be brought within four years after the date on which the penalty or late filing fee was imposed. For purposes of this subsection, a penalty or late filing fee is imposed when the Ethics Commission has issued a final decision in an enforcement action imposing a penalty for a violation of this Chapter or the Ethics Commission or Executive Director has made a final determination regarding the amount of a late filing fee imposed under this Chapter. The Ethics Commission or Executive Director does not make a final determination regarding the amount of a late filing fee imposed under this Chapter until the Ethics Commission or Executive Director has made a determination to accept or refuse any request to waive a late filing fee where such waiver has been timely requested and is expressly authorized by statute, ordinance, or regulation. For the purpose of this subsection, a civil action is brought when the City Attorney files the action in a court of law.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; Ord. 235-09, File No. 090833, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.530; added by Ord. 40-88, App. 2/18/88; amended by Ord. 19-99, App. 2/19/99)

SEC. 2.155. SEVERABILITY.

If any Section, Subsection, subdivision, sentence, clause, phrase or portion of this Chapter, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter or its application to other persons. The Board of Supervisors

hereby declares that it would have adopted this Chapter, and each Section, Subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more Sections, Subsections, subdivisions, sentences, clauses, phrases, or portions, or the application thereof to any person, to be declared invalid or unconstitutional.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation: Former Administrative Code Section 16.531; added by Ord. 40-88, App. 2/18/88; amended by Ord. 19-99, App. 2/19/99)

SEC. 2.160.

(Added by Ord. 222-00, File No. 000741, App. 9/29/2000; deleted by Ord. 235-09, File No. 090833, App. 11/10/2009)

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ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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EMI GUSUKUMA
COMMISSIONER

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COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: December 9, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

By: Mabel Ng, Deputy Executive Director

Re: Proposed amendments to CFRO regulations

The amendments to the Campaign Finance Reform Ordinance (CFRO), San Francisco Campaign and Governmental Conduct Code section 1.100 et seq. (C&GC Code) that the Ethics Commission approved in September 2009 will take effect on January 1, 2010. The CFRO amendments generally stemmed from staff's experiences in administering the CFRO and the City's public financing program, particularly in the 2008 election. The changes make it easier for candidates and committees to comply with the law; they also consolidate filing requirements to make it easier for the staff and the public to monitor campaigns and compliance with the law. In order to implement these changes, staff recommends that the Commission adopt several proposed amendments to the CFRO's regulations.

This memo contains 19 decision points. All but two of staff's proposed amendments are technical changes that incorporate the recent changes in the CFRO. The two more substantive amendments are discussed in Decision Points 3B and 11B below. Staff has also proposed several amendments that would clarify existing regulations or delete language that merely restates the language of the ordinance in order to shorten the regulations as much as possible.

In considering these proposed regulations, the Commission may wish to consider en masse the technical changes. The Commission may then wish to consider separately Decision Points 3B and 11B.

Regulations adopted by the Commission shall become effective 60 days after their adoption unless before the expiration of the 60-day period, two-thirds of all members of the Board of Supervisors vote to overturn the regulations. S.F. Charter § 15.102.

1. Proposed changes to regulations implementing section 1.104 (pages 1-4)

The proposed amendments to the regulations corresponding to C&GC Code section 1.104 are technical. For this reason, there is one decision point related to these changes.

Regulation 1.104-1: Definition of Matching Contribution; Documentation Sufficient to Establish Contributor's Residency; and

Regulation 1.104-2: Definition of Qualifying Contribution; Documentation Sufficient to Establish Contributor's Residency; Adjustment of Maximum Qualifying Contribution.

For these two regulations, staff proposes to delete language that repeats the ordinance's definitions of "matching contribution" and "qualifying contribution." In addition, staff proposes to add subsection notations, *i.e.*, (a) and (b), in order to easily reference separate sections of each regulation. Staff has added subsection (c) in both regulations to reference Regulation 1.142-3(b), which identifies the types of documentation that a candidate may rely upon to show a contributor's residency in San Francisco. Proposed subsection (d) in Regulation 1.104-2 adds a description of the process by which the Commission will adjust the threshold for qualifying contributions for inflation. This description is currently described later in the regulations, and staff believes it is more appropriately included near the other regulations concerning qualifying contributions.

Regulation 1.104-4: Individual Expenditure Ceiling

Staff proposes to delete current Regulation 1.104-4, which repeats language in section 1.143 of the CFRO.

Regulation 1.104-~~54~~: Determination of Total Opposition Spending; and

Regulation 1.104-65: Determination of Total Supportive Funds

In these renumbered regulations, staff's proposed changes reference the correct code section – 1.143 – under which the staff may adjust individual expenditure ceilings for publicly financed candidates. Staff's proposed changes also simplify the description of what information the Ethics Commission may consider to determine a candidate's total opposition spending or total supportive funds. The amendments also reflect that the Commission will also begin consolidating forms (related to reports required under sections 1.134, 1.152, 1.161 and 1.161.5) that disclose third-party spending.

Regulation 1.104-7: Member Communication

Staff proposes to delete current Regulation 1.104-7, as the definition of "member communication" is now set forth in section 1.104(t) of the CFRO.

Regulation 1.104-86: Trust Account Limit

The proposed changes reflect the new individual expenditure ceiling ("IEC") amounts for publicly financed candidates. Staff also proposes to delete the last two sentences in the regulation, as they repeat language found in section 1.104(b)(b) of the CFRO. In the examples, the amendments update the sample figures to reflect the new IECs.

Decision Point 1: Shall the Commission adopt the proposed changes to Regulations 1.104-1, 1.104-2, 1.104-4, 1.104-~~54~~, 1.104-65, 1.104-7 and 1.104-86, as drafted?

2. Proposed changes to regulations implementing section 1.107 (pages 4-5)

Regulation 1.107-1: Training Requirements for Candidates and Candidate Treasurers

The proposed amendment incorporates the term “candidate committee,” a new term in the CFRO. The other proposed amendment clarifies that section 1.107(a)(2) applies to treasurers of non-candidate committees.

Decision Point 2: Shall the Commission adopt the proposed changes to Regulation 1.107-1, as drafted?

3. Proposed changes to regulations implementing section 1.108 (pages 5-6)

Regulation 1.108-1: Candidate Committee Campaign Trust Account

CFRO section 1.108 no longer requires a candidate committee to disclose to the Ethics Commission its bank account number and branch identification, as state law already requires committees to provide this information. For this reason, the current regulation is no longer necessary.

Regulation 1.108-2I: Inaugural Expenses

Staff proposes a change in the title to identify correctly the content of the regulation, which is not a prohibition of multiple accounts, but a clarification on how a candidate may pay for inaugural expenses.

Regulation 1.108-32: Campaign Contingency Accounts for Candidates.

Staff proposes to delete current subsections (a), (c), and (d) because they merely repeat language that appears in CFRO section 1.108.

Regulation 1.108-3: Transfer of Funds to Campaign Contingency Account.

Staff proposes that the Commission adopt this new regulation to clarify the term “immediately transferred.” As set forth in CFRO section 1.108(a)(3), funds in a candidate committee's account that would otherwise cause the candidate committee to violate the trust account limit do not result in a violation if the committee immediately transfers those funds to its campaign contingency account.

Decision Point 3A: Shall the Commission adopt the proposed changes to Regulations 1.108-1, 1.108-2I, and 1.108-32, as drafted?

Decision Point 3B: Shall the Commission adopt new Regulation 1.108-3, as drafted?

4. Proposed changes to regulations implementing section 1.113 (page 6-7)

Regulation 1.113-3: Disclosure Requirements During Signature Gathering Periods – Start and End Dates of Signature Gathering Period.

Regulation 1.113-4: Duties of Signature Gatherer.

Regulation 1.113-5: Disclosure Requirements During Signature Gathering Periods – Forms Required to be Filed.

In Regulation 1.113-3, staff has added the words “or circulation” to track the language now used in CFRO section 1.113.

In Regulation 1.113-4, staff has changed “24 hours” to “one business day” to reflect the changes made to section 1.113 of the CFRO. Staff has also deleted the last part of the title and the last sentence because section 1.113 now establishes a standard time period for each proponent to file campaign disclosure reports, which eliminates the need for staff to calculate and post individualized reporting periods for each proponent.

Staff has edited and shortened Regulation 1.113-5 to ease comprehension and understanding.

Decision Point 4: Shall the Commission adopt the proposed changes to Regulations 1.113-3, 1.113-4 and 1.113-5, as drafted?

5. Proposed changes to regulation implementing section 1.115 (page 12)

Regulation 1.115-1: Coordination of Expenditures.

Staff has restated the regulation so that it is easier to follow.

Decision Point 5: Shall the Commission adopt the proposed changes to Regulation 1.115-1, as drafted?

6. Proposed changes to regulation implementing section 1.116 (page 12)

Regulation 1.116-1: Loan Limits; Adjustments

Staff has added language so that this regulation is consistent with language in other regulations regarding the adjustment of limitations or thresholds.

Decision Point 6: Shall the Commission adopt the proposed changes to Regulation 1.116-1, as drafted?

7. Proposed changes to regulations implementing section 1.118 (pages 12-13)

Regulation 1.118-1: Payment of Accrued Expenses.

Staff has deleted subsection (a) because it merely repeats language that appears in CFRO section 1.118. The other amendments clarify the regulation and correct a citation.

Decision Point 7: Shall the Commission adopt the proposed changes to Regulation 1.118-1, as drafted?

8. Proposed changes to regulations implementing section 1.122-1 (page 13)

Regulation 1.122-1: Surplus Funds Held by a Committee Other Than a Candidate Committee

CFRO section 1.122(b)(3) now states that surplus funds held by a candidate or committee must be “returned on a “last in, first out” basis to those persons who have made said contributions; donated to a charitable organization; donated to the City and County of San Francisco; used to pay outstanding campaign debts or accrued expenses; used to pay expenses associated with terminating the committee, such as bookkeeping, legal fees, preparation of campaign statements, and audits; or used for other permissible purposes established by the Ethics Commission by regulation.” Instead of repeating all of these permissible uses in the regulation itself, staff’s amendments just reference CFRO section 1.122(b)(3).

Decision Point 8: Shall the Commission adopt the proposed changes to Regulation 1.122-1, as drafted?

6. Proposed changes to regulations implementing section 1.128 (pages 18-19)

Regulation 1.128-1: Acceptance or Rejection of Voluntary Expenditure Ceilings.

As discussed below, most of the changes to this regulation are technical, to reflect changes to the underlying ordinance.

CFRO section 1.128 now establishes that the voluntary expenditure ceiling applies only to candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the SF Unified School District and the Governing Board of the SF Community College District. The proposed amendments to subsection (a) of Regulation 1.128 track this change. In addition, staff has deleted language in subsection (a) that contained a restriction prohibiting any candidate from filing the Form SFEC-128 prior to June 1, in order to track the changes in the CFRO.

To implement the changes in section 1.128 discussed above, staff recommends deletion of subsection (b) of the regulation. Under another regulation interpreting section 1.134, candidate committees will be required to notify the Commission within 24 hours of receiving contributions, making qualified campaign expenditures, incurring expenses or having funds in their campaign accounts that exceed 100 percent of the applicable voluntary expenditure ceiling – based upon this information, staff will be able to determine whether the applicable voluntary expenditure ceiling must be lifted.

Staff has recommended deletion of subsection (d) because the language replicates language that appears in sections 1.140 and 1.142 of the CFRO.

Staff has recommended deletion of subsection (e) because the CFRO no longer requires the Department of Elections to publish a notice of whether a candidate has accepted or declined to accept the voluntary expenditure ceiling in the Voter Information Pamphlet. Instead, the Ethics Commission will maintain on its website a list of candidates who have accepted the voluntary expenditure ceiling.

Staff has recommended deletion of subsection (f) because CFRO no longer requires every candidate to file the Form SFEC-128 to indicate acceptance or rejection of the voluntary expenditure ceiling. Only candidates who accept the ceiling must file the form.

Decision Point 9: Shall the Commission adopt the proposed changes to Regulation 1.128-1, as drafted?

10. Proposed changes to regulations implementing section 1.130 (pages 19-20)

Regulation 1.130-1: Amount of Expenditure Ceilings; Adjustments.

In adopting the amendments to CFRO that will take effect on January 2010, the Commission and the Board of Supervisors revised the voluntary expenditure ceiling amounts that are applicable to

all City elective offices (except the Mayor and Board of Supervisors, which are subject to individual expenditure ceilings if the candidates are eligible to receive public financing). For this reason, it is no longer necessary to separate out Regulation 1.130-1(a) into three subsections, with different base dates for the calculation of adjustments. Instead, any adjustments will be based on the Consumer Price Index as of January 2010. The proposed changes reflect the new law.

Regulation 1.130-2: Individual Expenditure Ceilings for Candidates.

Staff has moved Regulation 1.130-2 so that it now appears as Regulation 1.140-5. Section 1.140 addresses requirements for candidates who seek public financing; thus, it is more appropriate that a regulation governing how an adjustment of the individual expenditure ceiling would occur under CFRO sections 1.140(b) and 1.140(c) appear under regulations implementing section 1.140. For this reason, staff has moved Regulation 1.130-2 so that it now appears as Regulation 1.143-1.

Decision Point 10: Shall the Commission adopt the proposed changes to Regulations 1.130-1 and 1.130-2, as drafted?

11. Proposed changes to regulations implementing section 1.134 (pages 20-22)

Regulation 1.134-1: Reports by Candidates.

Revised CFRO section 1.134 provides that only candidates for Assessor, Public Defender, City Attorney, District Attorney, Treasurer, Sheriff, the Board of Education and the Governing Board of the Community College District are eligible to accept voluntary expenditure ceilings and are subject to the reporting requirements of section 1.134. The proposed amendments to this regulation track the changes to section 1.134 and add terminology - "qualifying campaign expenditures" and "campaign contribution trust account" - consistent with other CFRO provisions.

Regulation 1.134-2: Reports by Committees or Persons who Make Independent Expenditures, Electioneering Communications and Member Communications.

The proposed amendments to Regulation 1.134-2 reflect changes in the underlying ordinance: (1) by setting forth that the regulation applies only to spending that clearly identify candidates who may accept voluntary expenditure ceilings; and (2) referencing the new Third Party Spending Form. The proposals also generally clarify the regulation's purpose and scope.

Regulation 1.134-3: Lifting Voluntary Expenditure Ceilings.

Staff proposes new Regulation 1.134-3, along with examples, to clarify how the voluntary expenditure ceilings may be lifted. In past elections, staff has received many inquiries about how the ceilings may be lifted; staff believes that the regulation will provide helpful guidance to candidates, treasurers and members of the public.

Decision Point 11A: Shall the Commission adopt the proposed changes to Regulations 1.134-1 and 1.134-2, as drafted?

Decision Point 11B: Shall the Commission adopt the proposed new Regulation 1.134-3, as drafted?

12. Proposed changes to regulations implementing section 1.140 (pages 22-24)

Regulation 1.140-1: Eligibility to Receive Public Financing – “Candidate’s Previous Campaign Committee.”

Staff has added more precise references indicating where the term “candidate’s previous campaign committees” appears in CFRO section 1.140.

Regulation 1.140-2: Eligibility to Receive Public Financing – Expenditure Ceiling.

Here, staff has changed the individual expenditure ceilings to reflect the new ceilings set forth in CFRO that will take effect on January 1, 2010. The new ceilings are \$143,000 for candidates for the Board of Supervisors and \$1,475,000 for candidates for Mayor.

Regulation 1.140-3: Adjustments of Qualifying Limits and Thresholds – Board of Supervisors.

Regulation 1.140-4: Adjustments of Qualifying Limits and Thresholds – Mayor.

Staff has added references to “CPI” and “San Francisco-Oakland-San Jose” to describe consistently how staff will adjust limits and thresholds for inflation.

New Regulation 1.140-5: Amount of Individual Expenditure Ceiling – Adjustments.

This new regulation was formerly Regulation 1.130-2. It describes how staff will adjust individual expenditure ceilings for inflation, and sets forth the same process the staff follows to make adjustments to the voluntary expenditure ceilings.

Current Regulation 1.140-5: Adjustment of Maximum Qualifying Contribution.

As noted previously, the adjustment of the maximum qualifying contribution more appropriately belongs in Regulation 1.104-2, which defines “qualifying contribution.” Current Regulation 1.140-5 has been recast as Regulation 1.104-2(d), which appears on page 2.

Decision Point 12A: Shall the Commission adopt the proposed changes to current Regulations 1.140-1, 1.140-2, 1.140-3, 1.104-4 and 1.104-5, and new Regulation 1.104-5, as drafted?

13. Proposed changes to regulations implementing section 1.142 (pages 24-28)

Regulation 1.142-2: Process for Establishing Eligibility; Filing Requirements.

Regulation 1.142-3: Supporting Material Required for Qualifying and Matching Contributions.

Regulation 1.142-5: Process For Establishing Eligibility; Irrevocability of Decision to Participate or Not Participate; Withdrawal of Declarations.

In Regulation 1.142-2(a), staff has made a stylistic edit, replacing the word “sooner” with “earlier.”

In Regulation 1.142-3, staff has made changes that clarify what a candidate committee must provide along with contributions that would either qualify a candidate for public financing or be matched with public funds. The changes reflect current practice.

In Regulation 1.142-5, staff has added information regarding the last day a candidate may file nomination papers under state law.

Decision Point 13: Shall the Commission adopt the proposed changes to Regulations 1.142-2, 1.142-3, and 1.142-5, as drafted?

14. Proposed changes to regulations implementing section 1.143 (pages 28-31)

Regulation 1.143-1: Individual Expenditure Ceiling for Candidates

New section 1.143 of the CFRO addresses the adjustment of individual expenditure ceilings for publicly-financed candidates. Hence, staff believes it is appropriate to move current Regulation 1.130-2 to this section of the regulations. The regulation has been updated to reference section 1.143 as well as the new individual expenditure ceilings that will apply in January 2010.

Regulation 1.143-2: Lifting of Individual Expenditure Ceiling

Under sections 1.143(a) and (b), the Executive Director shall adjust the individual expenditure ceiling (IEC) of a publicly financed candidate to an amount equal to the sum of the total opposition spending against that candidate and the highest level of total supportive funds of any other candidate for the same race, if such amount is greater than the initial IEC. But the Executive Director may only adjust an IEC in increments of \$100,000 for candidates for Mayor and \$10,000 for candidates for the Board of Supervisors. The proposed amendments to Regulation 1.143-2, reflect the changes in section 1.143. The examples that appear on pages 28-30 have been rewritten not only so they reflect changes in the law but also so that they can be more easily understood.

Regulation 1.143-3: Objection to Executive Director's Determination Whether a Communication Supports or Opposes a Candidate.

Staff has rewritten Regulation 1.143-3 so that it is more concise and easier to parse.

Decision Point 14: Shall the Commission adopt the proposed changes to Regulations 1.143-1, 1.143-2 and 1.142-3, as drafted?

15. Proposed changes to regulations implementing section 1.144 (pages 31-35)

Regulation 1.144(c)-1: Disbursement of Public Funds for Mayoral Candidates; Claims Submitted Before Executive Director Determines Per Candidate Available Disbursement Limit.

Regulation 1.144(c)-2: Disbursement of Public Funds; Public Funds for Mayoral Candidates After Executive Director Determines Per Candidate Available Disbursement Limit.

Regulation 1.144(d)-1: Disbursement of Public Funds for Supervisorial Candidates; Claims Submitted Before Executive Director Determines Per Candidate Available Disbursement Limit.

Regulation 1.144(d)-2: Disbursement of Public Funds; Public Funds Available to Supervisorial Candidates After Executive Director Determines Per Candidate Available Disbursement Limit.

Regulation 1.144(f)-1: Schedule for Submission of Claims from Election Campaign Fund.

In general, staff has rewritten these regulations so that they are easier to read and understand. In Regulations 1.144(c)-2(b) and 1.144(d)-2(b), staff has made corrections so that the term "individual expenditure ceiling" is replaced with "trust account limit." A publicly financed

candidate's trust account limit is reduced by the same amount as any expenditure made by the candidate; it will be increased if the individual expenditure ceiling of the candidate is increased.

Staff proposes changes to Regulation 1.144(f)-1 in order to harmonize the regulation with the changes in the CFRO that increase the minimum amount of matching contributions that a publicly financed candidate for the Board of Supervisors may submit, bar a candidate from submitting a claim for public funds if he or she has a pending claim with the Commission, and modify the time by which checks must be issued by the Controller.

Decision Point 15: Shall the Commission approve the proposed changes to Regulation 1.144(c)-1, 1.144(c)-2, 1.144(d)-1, 1.144(d)-2, and 1.144(f)-1, as drafted?

16. Proposed changes to regulations implementing section 1.148 (pages 35-36)

Regulation 1.148-1: Restrictions on Use of Public Funds; Purchase of Equipment.

The CFRO no longer sets restrictions on the purchase or surrender of equipment. Thus, staff has deleted this regulation. (Staff has also renumbered current Regulation 1.148-2 as new Regulation 1.148-1.)

Decision Point 16: Shall the Commission approve the proposed changes to current Regulation 1.148-1, as drafted?

17. Proposed changes to regulations implementing section 1.152 (pages 36-37)

Regulation 1.152(a)-1: Supplemental Reporting in Elections for the Board of Supervisors – Candidates.

Regulation 1.152(a)-2: Supplemental Reporting for Elections for the Board of Supervisors – Persons Other than Candidates.

Regulation 1.152(b)-1: Supplemental Reporting in Elections for Mayor – Candidates.

Regulation 1.152(b)-2: Supplemental Reporting for Elections for Mayor – Persons Other than Candidates.

In Regulations 1.152(a)-1 and 1.152(b)-1, staff has separated the provisions into subsections (a), (b), and (c) in order to provide greater ease of reading.

In Regulations 1.152(a)-2 and 1.152(b)-2, staff has proposed language to clarify the regulations. Staff has also identified the Third Party Spending Form as the form that third parties must use to report spending related to races for Mayor and the Board of Supervisors.

Decision Point 17: Shall the Commission approve the proposed changes to Regulations 1.152(a)-1, 1.152(a)-2, 1.152(b)-1 and 1.152(b)-2, as drafted?

18. Proposed changes to regulations implementing section 1.161 (pages 37-38)

Regulation 1.161(a)-1: Filing Requirements for Mass Mailings by Candidates.

Regulation 1.161(b)-1: Filing Requirements for Mass Mailings by Persons Other than Candidates.

In Regulation 1.161(a)-1, staff has proposed the deletion of language that merely replicates language appearing in CFRO section 1.161. In addition, staff has defined the term “working day,” which appears in CFRO section 1.161(a).

In Regulation 1.161(b)-1, staff has proposed the deletion of language that appears in CFRO section 1.161(b). Staff has also referenced the Third Party Spending Form that non-candidates must use to report mass mailings.

Decision Point 18: Shall the Commission approve the proposed changes to Regulations 1.161(a)-1 and 1.161(b)-1, as drafted?

19. Proposed changes to regulations implementing section 1.161.5 (pages 38-40)

Regulation 1.161.5-1: Electioneering Communications

In this regulation, staff has deleted language that merely replicates language appearing in CFRO section 1.161.5. Staff has also proposed language to specify that persons who make payments for electioneering communications must report such payments on the Third Party Spending Form.

Staff has deleted subsection (c) because it is no longer necessary in light of section 1.112 in the CFRO, which provides that whenever any committee is required to file a report with the Commission under the CFRO, the committee shall file the report in an electronic format if the Commission has prescribed the format at least 60 days before the report is due.

Decision Point 19: Shall the Commission approve the proposed changes to Regulation 1.161.5-1, as drafted?

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Proposed Changes to Regulations to Campaign Finance Reform Ordinance
(Additions in **bold, underlined italic** text; deletions in strike-thru text)

Regulation 1.104-1: Definition of Matching Contribution; Documents Sufficient to Establish Contributor's Residency.

"Matching contribution" shall mean a monetary contribution, other than a loan or a qualifying contribution, that is made by an individual, other than the candidate or the candidate's immediate family, who is a resident of San Francisco from the individual's personal funds, and that complies with all requirements of the Campaign Finance Reform Ordinance, San Francisco Campaign & Governmental Conduct Code Section 1.100, et seq. ("CFRO").

(a) "Matching contribution" shall not include a contribution made to a candidate to support the candidate's election to a different office, or to support the candidate's election to the same office in a different election year, where the contribution was unexpended and carried forward as a contributions to a new campaign. "Matching contribution" shall also not include any contribution that was received more than 18 months before the date of the election.

(b) "Matching contribution" shall not include a contribution made by a business entity. For the purposes of this regulation, "business entity" includes sole proprietorships.

(c) Refer to Regulation 1.142-3(b) for a list of the documents sufficient to establish a contributor's residency in San Francisco.

Regulation 1.104-2: Definition of Qualifying Contribution; Documents Sufficient to Establish Contributor's Residency; Adjustment of Maximum Qualifying Contribution.

"Qualifying contribution" shall mean a monetary contribution, other than a loan, of not less than \$10 and not more than \$100 that is made by an individual, other than the candidate or the candidate's immediate family, who is a resident of San Francisco from the individual's personal funds, and that complies with all requirements of the CFRO.

(a) "Qualifying contribution" shall not mean a contribution made to a candidate to support the candidate's election to a different office, or to support the candidate's election to the same office in a different election year, where the contribution was unexpended and carried forward as a contribution to a new campaign. "Qualifying contribution" shall not include a contribution that was received more than 18 months before the date of the election.

(b) "Qualifying contribution" shall not include a contribution made by a business entity. For the purposes of this regulation, "business entity" includes sole proprietorships.

(c) Refer to Regulation 1.142-3(b) for a list of the documents sufficient to establish a contributor's residency in San Francisco.

(d) When the Ethics Commission adjusts the maximum amount of a contribution that constitutes a qualifying contribution for candidates under section 1.104 to reflect changes in the California Consumer Price Index ("CPI"), such adjustments shall be rounded off to the nearest \$10. The adjustments shall be made using the following formula: the maximum qualifying contribution amount in effect on January 1, 2007, multiplied by the current CPI, divided by the base CPI from 2006, rounded to the nearest ten dollars (\$10). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the maximum qualifying contribution amount in effect for all applicable elections held until the Commission next adjusts the amount.

Regulation 1.104-3: Definition of Immediate Family.

"Immediate family" means the spouse or registered domestic partner and dependent children of the candidate.

Regulation 1.104-4: Individual Expenditure Ceiling.

A candidate who is certified to receive public funds from the Election Campaign Fund is subject to an individual expenditure ceiling of \$140,000 for candidates for the Board of Supervisors or \$1,375,000 for candidates for Mayor, unless the Executive Director raises the individual expenditure ceiling of the candidate under section 1.134.5.

Regulation 1.104-5d: Determination of Total Opposition Spending.

(a) To determine the total opposition spending against a candidate who has been certified eligible to receive public funding, the Executive Director shall add any amounts that (1) are reported on Third Party Spending Forms SFEC-152(a)-3 (relating to candidates for the Board of Supervisors) or SFEC-152(b)-3 (relating to candidates for Mayor) and were made or incurred for independent expenditures, member communications or electioneering communications that are intended to oppose the candidate; and (2) that the Executive Director and/or Ethics Commission has determined, pursuant to section 1.134.5(d) 1.143, are intended to oppose the candidate, independent expenditures, electioneering communications or member communications that have the effect of opposing the candidate; and (3) the Executive Director or Ethics Commission has determined should be used to calculate the amount of total opposition spending. The Executive Director may also consider, in his or her discretion, any other relevant information available to the Ethics Commission that reflect additional, unreported third-party spending.

(b) For the purposes of determining total Total opposition spending, does not include spending by a candidate to support himself or herself or to oppose his or her opponents in the same election does not constitute opposition spending.

Regulation 1.104-65: Determination of Total Supportive Funds.

(a) To determine the total supportive funds of a candidate for the Board of Supervisors or Mayor, the Executive Director shall use the aggregate amount of contributions that are reported by the candidate reports on Forms SFEC-152(a)-1 and SFEC-152(a)-2. The Executive Director shall then add to this contribution amount any amounts that reported on Third Party Spending Forms that the Executive Director and/or the Ethics Commission has determined, under section 1.143, are intended to support the candidate. The Executive Director may also consider, in his or her discretion, any other relevant information available to the Ethics Commission that reflect additional, unreported third-party spending.

- (1) are reported on Form SFEC-152(a)-3 and were made for independent expenditures, electioneering communications or member communications that are intended to support the candidate; and
- (2) the Executive Director or Ethics Commission has determined, pursuant to section 1.134.5(d), are independent expenditures, electioneering communications or member communications that have the effect of supporting the candidate; and
- (3) the Executive Director or Ethics Commission has determined should be used to calculate the amount of total supportive funds.

(b) To determine the total supportive funds of a candidate for Mayor, the Executive Director shall use the aggregate amount of contributions that are reported by the candidate on Forms SFEC-152(b)-1 and SFEC-152(b)-2. The Executive Director shall then add to this contribution amount any amounts that

- (1) are reported on Forms SFEC-152(b)-3 and were made or incurred for independent expenditures, electioneering communications or member communications that are intended to support the candidate; and
- (2) the Executive Director or Ethics Commission has determined, pursuant to section 1.134.5(d), are independent expenditures, electioneering communications or member communications that have the effect of supporting the candidate; and
- (3) the Executive Director or Ethics Commission has determined should be used to calculate the amount of total supportive funds.

(eb) Spending by any person intended to oppose one candidate does not constitute supportive spending to support for the candidate's opponents for the purpose of determining total supportive funds.

Regulation 1.104-7: Member Communication.

A "member communication" shall include communications to members, employees, shareholders or families of members, employees or shareholders of an organization as those terms are defined by and used in California Government Code section 85312 and Title 2 of the California Code of Regulations, section 18531.7, and any subsequent amendments to those sections.

Regulation 1.104-86: Trust Account Limit.

Unless the Ethics Commission has increased his or her individual expenditure ceiling is increased, the trust account limit of any candidate who is certified as eligible to receive

public funds may not exceed \$140,000 143,000 for a candidate for the Board of Supervisors or \$1,375,000 1,475,000 for a candidate for Mayor. ~~The trust account limit is reduced by the same amount as any expenditure made by the candidate. The trust account limit will be increased if the individual expenditure ceiling of the candidate is increased.~~

Example: Joan, a candidate for the Board of Supervisors, has been certified as eligible to receive public funds from the Election Campaign Fund. Joan's individual expenditure ceiling begins at \$140,000 143,000. Joan spends \$30,000. Joan's trust account limit is now \$140,000 113,000.

Example: Joan's individual expenditure ceiling has been raised to \$150,000 153,000. Joan has spent a total of \$45,000. Joan's trust account limit is now \$105,000 108,000.

Example: John, a candidate for Mayor, has been certified eligible to receive public funds from the Election Campaign Fund. John's individual expenditure ceiling begins at \$1,375,000 1,475,000. John spends \$30,000. His trust account limit is now \$1,345,000 1,445,000.

Example: John's individual expenditure ceiling has been raised to \$1,475,000 1,575,000. John has spent an additional \$170,000, for a total of \$200,000. His trust account limit is now \$1,275,000 1,375,000.

Regulation 1.107-1: Training Requirements for Candidates and Candidate Treasurers.

Each candidate for City elective office and the candidate committee's treasurer must attend a training program on the Campaign Finance Reform Ordinance conducted or sponsored by the Ethics Commission no earlier than 12 months and no later than 30 days prior to the election at which the candidate's name will appear on the ballot. **Treasurers for all non-candidate committees must attend the next training program conducted or sponsored by the Ethics Commission after the date the committee files either its original statement of organization or an amendment to a statement of organization designating a new treasurer.** An assistant treasurer who signs campaign disclosure reports is considered a treasurer for purposes of section 1.107.

Regulation 1.107-2: Training Opportunities.

The Ethics Commission shall provide a training workshop on the Campaign Finance Reform Ordinance at least once within 30 days of the last day to file nomination papers. A candidate or treasurer who is unable to attend a workshop training as required by section 1.107 may contact Ethics Commission staff to schedule one-on-one training, and staff will make all reasonable efforts to provide such training. Such a person may also receive training from the Ethics Commission website, provided that the Commission has posted such a training presentation on its website along with a statement that expressly states that watching the presentation meets the requirement of section 1.107. The online training presentation may be in the form of a video, slideshow, or any other medium that effectively conveys substantially the same information provided in the workshop. At the

Commission's discretion, the Commission may permit the online presentation to satisfy the training requirement of section 1.107 only for candidates and treasurers who have attended a live training during the prior year during which there have been no substantive amendments to the Campaign Finance Reform Ordinance.

Regulation 1.107-3: Certificate of Training.

Each candidate or treasurer who receives training must complete and submit a certification of training (Form SFEC-107) at such training. Each candidate or treasurer who receives training from the Ethics Commission website must file the same certificate indicating that he or she has completed the online training course. The certificate of training (Form SFEC-107) will be available at the training session(s) or on the Ethics Commission's website.

~~Regulation 1.108-1: Candidate Campaign Trust Account.~~

~~Each treasurer for a candidate must file Form SFEC-108-1 with the Ethics Commission within 10 days of establishing any account required by section 1.108.~~

~~Regulation 1.108-2: Prohibition of Multiple Accounts. Inaugural Expenses.~~

(a) A candidate may, but is not required to, use funds in his or her campaign contribution trust account for inaugural expenses. All funds in the campaign contribution trust account are subject to the applicable contribution limit set forth in section 1.114. Funds expended from the campaign contribution trust account for inaugural expenses are not subject to the applicable expenditure ceiling in either section 1.130 or 1.140.

(b) An inaugural committee, such as a nonprofit public benefit corporation, that is not created by or under the control of an elected officeholder, is not subject to the CFRO.

Regulation 1.108-3: Campaign Contingency Accounts for Candidates.

(a) ~~Each candidate who is certified as eligible to receive public funds may establish a campaign contingency account, separate from his or her campaign contribution trust account, into which the candidate may deposit contributions in anticipation of an increase in the candidate's individual expenditure ceiling.~~

(~~b~~) The campaign contingency account must be established at the same bank as the candidate's campaign contribution trust account and may be an interest-bearing savings account. The candidate must file Form SFEC-108-2 with the Ethics Commission to provide the account number within 10 days of establishment establishing of the campaign contingency account.

(~~c~~) ~~The candidate must report all contributions deposited into the campaign contingency account as if it were deposited into the candidate's campaign contribution trust account.~~

(~~d~~) ~~No candidate may make expenditures from his or her campaign contingency account. A candidate may transfer funds from his or her campaign contingency account~~

into his or her campaign contribution trust account, provided that the funds in the campaign contribution trust account do not exceed the candidate's trust account limit.

(eb) Within 10 days after the date of the election, each candidate must turn over all funds in his or her campaign contingency account to the Election Campaign Fund so that the balance in the candidate's campaign contingency account is zero. To turn funds over to the Election Campaign Fund, each candidate must submit a money order, cashier's check, or similar written instrument drafted by a financial institution for the amount of funds in the campaign contingency account, made payable to the City and County of San Francisco, and deliver the money order or cashier's check to the Ethics Commission no later than the 10th day after the date of the election. Any fee paid to generate the money order or cashier's check may be subtracted from the amount being turned over. Each candidate must also file a Form SFEC-108-3 with the Ethics Commission certifying to state that the amount being turned over is accurate.

Regulation 1.108-3: Immediate Transfer of Funds to Campaign Contingency Account.
Any contributions that would otherwise cause the amount of funds in a candidate's campaign contribution trust account to exceed the trust account limit do not result in a violation of section 1.108 if the candidate's committee immediately transfers excess contributions to the candidate's campaign contingency account within two business days of depositing those contributions.

Regulation 1.112-1: Electronic Campaign Disclosure – Date of Expenditures.

(a) For the purposes of disclosure under section 1.112, the "date" that any expenditure required to be reported is "incurred" is the date that the payment is made or the date that consideration, if any, is performed or received, whichever is earlier.

(b) For the purposes of disclosure under section 1.112, the "date" that an accrued expense is "incurred" is the date that the debt or obligation is contracted.

(c) For the purposes of disclosure under section 1.112, an expenditure that qualifies as a monetary or nonmonetary contribution to a candidate or committee is "incurred" by a contributor on the earlier of the following dates: (A) the date that funds are expended by the contributor for goods or services; or (B) the date that the contributor mails or delivers the funds.

Regulation 1.113-1: Disclosure Requirements During Signature Gathering Periods – Definition of Committee.

For the purposes of filing disclosure reports under section 1.113, a "committee" is

(a) a committee primarily formed pursuant to California Government Code section 82047.5 to support or oppose the qualification of a measure to be voted on in a City and County of San Francisco election; or

(b) a recipient committee that is a proponent of an initiative petition, a recall petition or a referendum petition in the City and County of San Francisco; or

(c) a committee that makes independent expenditures totaling \$1,000 or more in a calendar year, or an amount specified in California Government Code section

84203.5, to support or oppose the qualification of a measure to be voted on in a City and County of San Francisco election and that is either a general purpose recipient committee pursuant to subsection (a) of California Government Code section 82013 or an independent expenditure committee pursuant to subsection (b) of California Government Code section 82103.

Regulation 1.113-2: Disclosure Requirements During Signature Gathering Periods – Definition of Proponent.

For the purposes of these regulations, the term "proponent" shall mean

(a) for an initiative petition, the person or persons who submit a draft of a petition proposing the measure to the Department of Elections with a request that the City Attorney draft a title and summary of the chief purpose and points of the proposed measure;

(b) for a referendum petition, the person or persons who file the petition with the Clerk of the Board of Supervisors; or

(c) for a recall petition, the person or persons who have authority over or control of the circulation of, or obtaining signatures for, the petition.

Regulation 1.113-3: Disclosure Requirements During Signature Gathering Periods – Start and End Dates of Signature Gathering Period.

(a) For the purposes of filing disclosure reports under section 1.113, the signature gathering or circulation period starts on the date that the proponent begins to circulate a signature petition to qualify the measure for the ballot.

(b) For purposes of filing disclosure reports under section 1.113, the signature gathering period ends as follows:

(1) For initiative petitions, on the earlier of: the date that the proponent submits the signature petitions to the Department of Elections, or 180 days from the day that the proponent receives title and summary pursuant to California Elections Code section 9208;

(2) For recall petitions, on the earlier of: the date that the proponent submits the signature petitions to the Department of Elections, or by the submission date set forth in California Elections Code section 11220;

(3) For referendum petitions, on the earlier of: the date that the proponent submits the signature petitions to the Department of Elections, or the submission date under state law.

Regulation 1.113-4: Duties of Signature Gatherer and Ethics Commission.

Within 24 hours one business day of the first date that a petition is circulated to qualify a measure for the ballot, the proponent of the petition must notify the Ethics Commission by email or facsimile to inform the Commission that the proponent has begun to circulate the petition. ~~Upon receipt of such information, the Ethics Commission will post on its website the schedule for filing reports under section 1.113 for each initiative, referendum or recall petition.~~

Regulation 1.113-5: Disclosure Requirements During Signature Gathering Periods—Forms Required to be Filed.

To comply with the filing requirements of section 1.113, a committee primarily formed to support or oppose the qualification of a measure on the ballot or a recipient committee that is the proponent of such a measure must file use the Fair Political Practices Commission ("FPPC") Form 460 ~~during the signature gathering period~~. Any general purpose recipient or independent expenditure committee that meets the requirements of California Government Code section 84203.5 must file use FPPC Form 465. ~~reports under the same 1.113 filing schedule governing the committee supporting or opposing the initiative, referendum or recall petition.~~

Regulation 1.114-1: Limits on Contributions from Corporations. •

(a) A corporation may establish, administer and solicit contributions to a separate segregated fund ("SSF") to be utilized by the corporation for making contributions to candidates for City elective office, provided that the SSF is (i) a federal committee, or (ii) a committee that complies with the reporting requirements of state and local law and this section.

(b) References to Federal Law. All references to federal statutes and regulations in section 1.114(b) include any existing or subsequent amendments, modifications, and formal judicial or federal administrative interpretation of those statutes and regulations.

(c) Definitions.

(1) Connected Organization. For the purpose of this regulation, "connected organization" shall have the meaning set forth in 2 U.S.C. § 431(7).

(2) Corporation. For the purpose of section 1.114, "corporation" shall mean any corporation organized pursuant to the laws of the state of California, the United States, or any other state, territory, or foreign country, whether for profit or not, except as set forth in subsection (c)(2)(A) through (D).

(A) Limited Liability Companies. A limited liability company (LLC) that elects to be treated as a partnership under the Internal Revenue Code is not a "corporation" for the purposes of section 1.114(b). A limited liability company that elects to be treated as a corporation under the Internal Revenue Code is a "corporation" for the purposes of section 1.114(b).

(B) Partnerships with corporate members. A partnership whose only members are corporations is a "corporation" for the purposes of section 1.114(b). A partnership or an LLC with one or more members that are corporations and one or more members that are not corporations may contribute to a candidate for City elective officer under section 1.114(b) if the contributions are attributable exclusively to sources that are not corporations.

(C) Professional corporations. A professional corporation is a "corporation" for the purposes of section 1.114(b).

(D) Nonprofit corporations. A nonprofit corporation is a "corporation" for the purposes of section 1.114(b), provided, however, that a nonprofit corporation may make a contribution to a candidate for City elective office without violating the prohibitions set forth in section 1.114(b) if (1) it is a "qualifying nonprofit corporation" as defined in 11 C.F.R. section 114.10(c), and (2) it complies with 11 C.F.R. section 114.10(f).

(d) SSF Name. Every SSF must adopt a name in compliance with 2 U.S.C. section 432(e)(5) and 11 C.F.R. section 102.14(c).

(e) Treasurer. Each SSF must have a treasurer pursuant to California Government Code section 84100 and the CFRO. No contribution or expenditure shall be accepted or made by or on behalf of an SSF during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of an SSF without the authorization of the treasurer or his or her designated agent. The treasurer shall be responsible for compliance with applicable provisions in the Political Reform Act and this Chapter.

(f) Administration of SSF.

(1) Funds paid by a connected organization for purposes described in 11 C.F.R. section 114.1(a)(2)(i)-(iii) shall not be contributions subject to the limits set forth in section 1.114(b).

(2) Commingling Funds. Each SSF and connected organization must comply with 2 U.S.C. section 432(b)(3) and 11 C.F.R. section 102.15.

(3) Soliciting and Accepting Contributions. When soliciting or accepting contributions, the SSF must comply with 11 C.F.R. section 114.5(a)-(c), (g)(1), (h)-(k); 11 C.F.R. section 114.6(a), (c)-(e); and 11 C.F.R. section 114.7.

(4) An SSF may act as a conduit for an earmarked donation from a person to a candidate, subject to the provisions of 11 C.F.R. section 110.6(a), (b) and (d).

(5) If an SSF receives a contribution that appears to be prohibited under this Chapter, the SSF shall comply with 11 C.F.R. section 103.3(b), the Political Reform Act, and the CFRO.

(g) Affiliation. If two or more SSFs are "affiliated" under 11 C.F.R. section 110.3(a) or the CFRO, those SSFs shall be treated as a single affiliated committee for the purposes of section 1.114(b).

(h) Termination. An SSF may terminate when:

(1) it no longer intends to receive contributions or make expenditures;

(2) neither the committee seeking to terminate nor any affiliated committee has any outstanding debts or obligations; and

(3) the committee is not involved in any enforcement action, audit or litigation with the Ethics Commission.

(i) Each SSF shall comply with all applicable campaign registration and reporting requirements in the Political Reform Act, the Campaign and Governmental Conduct Code and these regulations.

Regulation 1.114-2: Limits on Contributions to Committees.

[Note: On September 20, 2007, the U.S. District Court for the Northern District of California issued a preliminary injunction ordering the City not to enforce CFRO section

1.114(c)(1)-(2) and Regulation 1.114-2. At this time, the Ethics Commission is not enforcing this regulation.]

(a) Limits on Contributions to Committees.

(1) Contribution Limits. Committees that make expenditures to support or oppose candidates for City elective office are subject to the contribution limits established by section 1.114(c) of the San Francisco Campaign and Governmental Conduct Code.

(2) Exception. A committee may solicit and accept contributions in excess of the limits established by section 1.114(c) if the committee makes expenditures for any lawful purpose other than supporting or opposing candidates for City elective office, provided that funds received from contributions in excess of the limits set forth in section 1.114(c) are used only for lawful purposes other than supporting or opposing candidates for City elective office.

(b) Compliance Methods.

Demonstration of compliance with the contribution limits established by section 1.114(c) may be accomplished using any of the methods described below.

(1) Establish a separate committee. A separate committee may be established for the purpose of raising funds to make expenditures to support or oppose candidates for City elective office. Such a committee may not solicit or accept contributions in excess of the limits established by section 1.114(c).

(2) Use of a separate bank account. A committee may segregate funds used for expenditures to support or oppose candidates for City elective office into a separate bank account. All expenditures to support or oppose candidates for City elective office must be made with funds from this account. A committee may not deposit into this account any contributions that were solicited or accepted in excess of the limitations established by section 1.114(c).

(3) Use of "first in, first out" accounting method. A committee may demonstrate, using a first in, first out accounting method, that it has received an amount of contributions at or below the limits established by section 1.114(c) equal to the amount of expenditures to support or oppose candidates for City elective office. Such committees may attribute only the first \$500 of a contribution received in excess of the limits established by section 1.114(c), and may not attribute funds from a contributor who has already reached his or her cumulative limit set forth in section 1.114(c). In accordance with subsection (a)(2) of this regulation, a committee may not pay for an expense, bill or debt incurred to support or oppose candidates for City elective office with funds received in excess of the limits, and then attribute subsequently raised contributions of \$500 or less to such expenses, bills or debts incurred.

(4) Use of any other method. A committee may demonstrate compliance with the contribution limits set forth in section 1.114(c) by using a method that is not described above. A committee shall bear the burden of proof that any such method demonstrates compliance with the contribution limits set forth in section 1.114(c).

At the time that the committee files a Form 465 to report expenditures to support or oppose candidates for City elective office, it must file Form SFEC-114 to identify the

method that it will use to show compliance with section 1.114(c). Once filed, the Form SFEC-114 need not be filed again.

(c) Safe Harbors.

(1) Committees. A committee that solicits or accepts a contribution which, when aggregated with contributions the same contributor has given to other committees that support or oppose candidates for City elective office, would otherwise constitute a violation of section 1.114(c), shall not be in violation of that section, provided that: (A) the committee did not know or have reason to know at the time the contribution was solicited or accepted that the contribution was in excess of the limits set forth in section 1.114(c); (B) the committee provided, within two weeks of the later of either receiving the contribution or attributing the contribution to an expenditure to support or oppose a candidate for City elective office, notice to the contributor of the amount of his or her contribution that was used to support or oppose a candidate for City elective office; and (C) the committee either returns or reattributes the contribution within 72 hours of receiving notification from the contributor that the contributor has already reached his or her cumulative limit set forth in section 1.114(c). The notice described in this subsection shall contain the following or substantially similar language:

"San Francisco law prohibits contributors from giving a cumulative amount of more than \$3,000 in a calendar year to committees that support or oppose candidates for City elective office in San Francisco. We have used [or will use] [amount of contribution attributed] of your contribution to [name of committee] to support [or oppose] a candidate for City elective office in San Francisco. Please apply this amount towards your \$3,000 cumulative limit for the [year in which the contribution was received, e.g., 2002] calendar year. In order to avoid any possible liability, please notify us within two weeks of receipt of this letter if you have already reached your \$3,000 cumulative limit for the [year in which the contribution was received, e.g., 2002] calendar year."

Treasurers shall maintain a record of all notices sent pursuant to this section, containing the date of each notice and the name and address of the person to whom each notice is sent.

(2) Contributors. A contributor who makes a contribution which, when aggregated with other contributions the same contributor has donated to committees that make expenditures to support or oppose candidates for City elective office, would otherwise be in violation of section 1.114(c), shall not be in violation of that section, provided that: (A) the contributor did not know or have reason to know at the time the contribution was made that the contribution was in excess of the contribution limits set forth in section 1.114(c); and (B) the contributor informs a committee that the contributor has already reached his or her cumulative limit within two weeks of receiving a notification from the committee that his or her contribution will be or was used for an expenditure to support or oppose a candidate for City elective office.

(d) Campaign funds held in the bank account of a committee prior to January 1, 2001.

(1) Funds that were held in the bank account of a committee prior to January 1, 2001 are not subject to the contribution limitations established by section 1.114(c) of the San Francisco Campaign and Governmental Conduct Code.

(2) To determine whether a committee has funds that were held in its bank account prior to January 1, 2001, the committee shall subtract from the amount of funds it held in its bank account on December 31, 2000, the amount of the committee's accrued expenses that existed on December 31, 2000 and the amount of money it has spent since January 1, 2001 on expenditures. Expenditures to pay for accrued expenses that existed on December 31, 2000 shall not be included in the amount of money spent since January 1, 2001. Any funds remaining may be used for expenditures to support or oppose candidates for City elective office.

(e) Definitions.

(1) For the purposes of section 1.114(c) and this regulation, the term "expenditure" has the same meaning as in California Government Code section 82025. This includes but is not limited to: a direct monetary contribution or loan made to a candidate for City elective office; a payment made to a vendor for goods or services for a candidate for City elective office (a nonmonetary contribution); a donation to a candidate for City elective office of goods on hand, or the payment of salary or expenses for a campaign employee who spends 10 percent or more of his or her compensated time in any one month working for a candidate for City elective office; or a payment made for a communication (e.g., a mailing, billboard, or radio advertisement) that expressly advocates the election or defeat of a clearly identified candidate for City elective office, but the payment is not made to, in coordination or cooperation with, or at the behest of, the candidate or his or her agent (an independent expenditure).

(2) For the purposes of this regulation, the phrase "first in, first out" means that campaign funds being used by a committee for expenditures to support or oppose a candidate for City elective office are attributed to contributors in chronological order beginning with the earliest of the committee's contributors on or after January 1, 2001 or, if there has been a prior expenditure to support or oppose a candidate for City elective office, beginning with the earliest contributor for which unattributed contributions remain.

Regulation 1.115-1: Coordination of Expenditures.

~~An expenditure is presumed not independent of the candidate on whose behalf or for whose benefit the expenditure is made when any of the provisions of section 1.115(b) are met regardless of whether the activities of the spender or the spender's agent are voluntary or compensated.~~ *The rebuttable presumption established by section 1.115(b) applies regardless of whether the actions taken were voluntary or compensated.*

Regulation 1.116-1: Loan Limits; Adjustments.

On or before January 31 of each year, the Ethics Commission may adjust the loan limits imposed by section 1.116 to reflect changes in the California Consumer Price Index ("*CPI*"). If the Commission chooses to make an adjustment, the adjustment shall be made using the following formula: the loan limit in effect on January 1, 2004, multiplied by the current CPI, divided by the base CPI from 2003, rounded to the nearest one

thousand dollars (\$1,000). The adjustments shall be based upon the ~~September~~ October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the adjusted loan limit in effect for all City elections held until the Commission next chooses to adjust the limits.

Regulation 1.118-1: Payment of Accrued Expenses.

(a) ~~A candidate who accepts goods or services on credit must pay for such accrued expenses in full no later than 180 calendar days after receipt of a bill or invoice and in any event no later than 180 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably based on a good faith dispute.~~
~~Notwithstanding the existence of a good faith dispute, a candidate must pay for that portion of accrued expenses, if any, for which no good faith dispute exists.~~

(b) A candidate committee will not be deemed to have has not violated section 1.118 for any calendar day on which an accrued expense remains partially or wholly unpaid if (1) the committee has been terminated candidate's status as a candidate has terminated pursuant to 2 C.C.R. section 81404 18404 on or before that calendar day, or (2) the creditor has forgiven the debt as permitted by law on or before that calendar day. Notwithstanding the foregoing, any amount in excess of \$500 that remains unpaid at the time of termination or that has been forgiven by the creditor as permitted by law shall be deemed constitute a violation of section 1.114(a) ~~by the candidate~~. Such an expense shall not be deemed a violation of section 1.114(a) by the creditor unless it is otherwise deemed a contribution under law.

(e) Section 1.118 applies to expenses that were accrued by a candidate committee on or after January 1, 2007.

Regulation 1.122-1: Surplus Funds Held by a Committee Other Than a Candidate's Campaign Committee.

(a) Surplus Funds Held by a Committee Primarily Formed to Support or Oppose a Measure. Funds remaining in the campaign account of a committee primarily formed to support or oppose a measure at the end of the post-election reporting period following the election at which the measure appeared on the ballot are surplus funds and must be returned, donated, or used as prescribed in section 1.122(b)(3). Such funds must be:
—— (1) ~~returned on a last-in, first-out basis to those persons who have made such contributions;~~

—— (2) ~~donated to a charitable organization; or~~

—— (3) ~~donated to the City and County of San Francisco.~~

(b) Funds Held by Any Other Committee.

Funds held by a committee other than a candidate-controlled committee or a committee primarily formed to support or oppose a measure are not subject to section 1.122.

Regulation 1.122-2 Transfer of Funds in a Candidate's Campaign Account.

(a) The use and transfer of funds held in a candidate's campaign account during an election, after the candidate's withdrawal or when such funds become surplus, are regulated by both state and local law. Candidates and treasurers must comply with both state and local law in the handling of such funds. Under some circumstances such as when funds become surplus, state law prohibits the transfer of funds.

(b) A candidate who transfers funds from one candidate campaign account to another must file Form SFEC-122 to disclose whether "last in, first out" or "first in, first out" was used and information regarding the contributions that were transferred.

Regulation 1.126-1: Contribution Limits – Contractors Doing Business with the City: Definitions.

(a) Board on which an individual sits.

"Board on which an individual sits" means the board to which the officer was elected and any other board on which the elected officer serves.

(b) Commencement of Negotiations.

Negotiations are commenced when a prospective contractor first communicates with an officer or employee of the City, the Unified School District, the Community College District; or a state agency on whose board an appointee of a city elective officer sits about the possibility of obtaining a specific contract. This initial communication may occur in person, by telephone, or in writing, and may be initiated by the prospective contractor or the officer or employee.

Examples of communications between prospective contractors and officers and employees of the City, the Unified School District, the Community College District or a state agency on whose board an appointee of a city elective officer sits that commence negotiations include, but are not limited to, the following: A prospective contractor contacts an officer or employee to promote himself or herself for a specific contract; an officer or employee contacts a prospective contractor to propose that the contractor apply for a specific contract; a prospective contractor submits a bid, proposal or response to a Request for Qualifications to compete for a specific contract.

Examples of communications between prospective contractors and officers and employees that do not commence negotiations include, but are not limited to the following: Inquiries regarding a particular contract, and requests for information or documents relating to a Request for Proposal or Request for Qualifications, provided that the inquiry or request does not involve promotion of the prospective contractor's interest in a specific contract; distribution or receipt of Requests for Proposals; distribution or receipt of Requests for Qualifications; attendance at an interested persons meeting or a hearing that is open to the public; and requests to be placed on a mailing list.

(c) Contract.

For the purposes of section 1.126, a contract does not include the following:

- (1) a work order or purchase order submitted under an existing contract; or

(2) a modification of an existing contract where the majority of the terms of the contract remain in full force and effect and the total amount of the modification does not exceed \$50,000 in a fiscal year.

(d) Date the Contract Is Approved.

A contract is approved when it is finalized and signed by the City, a state agency on whose board an appointee of a City elective officer sits, the Unified School District or the Community College District and the contractor.

(e) Person who Contracts With.

(1) For the purposes of section 1.126, a "person who contracts with" includes any named party or prospective named party to a contract, as well as any member of that named party or prospective named party's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 20 percent in the named or prospective named party, any subcontractor listed in a bid or contract, and any committee as defined in Chapter 1 of the Campaign and Governmental Conduct Code that is sponsored or controlled by the named party or prospective named party.

(2) If a named party or prospective named party does not have a board of directors or chairperson of the board of directors, a "person who contracts with" includes any person who directs or participates in directing the affairs and activities of the named party or prospective named party.

(3) If a named party or prospective named party does not have a chief executive officer, chief financial officer, or chief operating officer, a "person who contracts with" includes any president of the named party or prospective named party or any person who directs the overall activities, financial activities, or operations of the named party or prospective named party.

(f) Personal services.

For the purposes of section 1.126(a)(2)(A), personal services means services that are provided by a person or an entity. Such services include but are not limited to tasks such as consulting, architecture, engineering, design, legal services, finance, accounting, janitorial services, medical treatment, transportation, underwriting, insurance, and security.

(g) State Agency on whose Board an Appointee of a City Elective Officer Serves. For the purposes of section 1.126, a state agency on whose board a City elective officer or an appointee of a City elective officer serves is limited to the following: Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority, and Local Workforce Investment Board. The City elective officers who appoint members of these boards for the purposes of section 1.126 are:

- (1) Health Authority: Board of Supervisors and Mayor
- (2) Housing Authority Commission: Mayor

- (3) Industrial Development Authority Board: Mayor and Board of Supervisors
- (4) Parking Authority: Mayor and Board of Supervisors
- (5) Redevelopment Agency Commission: Mayor and Board of Supervisors
- (6) Relocation Appeals Board: Mayor and Board of Supervisors
- (7) Treasure Island Development Authority: Mayor
- (8) Local Workforce Investment Board: Mayor

(h) Submission of a Contract to an Individual Holding City Elective Office.

(1) A contract is submitted to each member of the Board of Supervisors when a resolution to approve the contract is introduced at the Board of Supervisors.

(2) A contract approved by the Board of Supervisors is submitted to the Mayor upon adoption of a resolution approving the contract by the Board of Supervisors.

(3) A contract is submitted to any other individual holding City elective office when the individual is informed that negotiations for the contract have commenced or the individual's office receives a copy of the contract for the individual's review or approval.

(i) Termination of Negotiations.

Negotiations are terminated when the City, a state agency on whose board an appointee of a city elective officer sits, the Unified School District or the Community College District and/or the prospective contractor end the negotiation process before a final decision is made to award the contract.

Examples of actions that terminate negotiations include, but are not limited to, the following: A prospective contractor formally withdraws or is disqualified from consideration for a specific contract.

Regulation 1.126-2: Party that is Subject to the Prohibition.

(a) The prohibition set forth in section 1.126(b) applies to the named party or prospective named party who contracts with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the San Francisco Community College District. This includes:

- (1) any named party or prospective named party to the contract;
- (2) any member of that named party's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer,
- (3) any person with an ownership interest of more than 20 percent in the named party;
- (4) any subcontractor listed in a bid or contract; and
- (5) any committee as defined in the California Government Code (commencing at section 81000) that is sponsored or controlled by the named party or prospective named party.

(b) The prohibition set forth in section 1.126(b) does not apply to any member of the board of directors, chairperson, chief executive officer, chief financial officer or chief operating officer of any person with an ownership interest of more than 20 percent in the

named party or prospective named party to a contract, or of any subcontractor listed in a bid or contract.

(c) For the purposes of section 1.126(b)(1)(C), "a committee controlled by such individual or candidate" includes either a committee formed to support or oppose a candidate for City elective office or a committee formed to support or oppose a local ballot measure.

Regulation 1.126-3: Notification.

Any prospective party to a contract with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the Community College District must inform each person described in section 1.126(a)(1) of the prohibition in section 1.126(b) by the commencement of negotiations for such contract. The notice is sufficient if it:

- (a) is provided in written form,
- (b) is sent by U.S. mail, email, facsimile transmission, or personal delivery; and
- (c) contains language similar to the following [please fill in information in brackets]:

Notice:

I [name of party] am seeking to enter into a contract with [name of agency, board or commission] that will have a value of \$50,000 or more in a fiscal year. Under section 1.126 of the San Francisco Campaign and Governmental Conduct Code, I am required to advise you that because you [check appropriate box]

- ☐ Serve as a director on the board of directors of my company;
- ☐ Serve as the chairperson, chief executive officer, chief financial officer, chief operating officer, or other person who directs the activities of my company;
- ☐ Have an ownership interest of more than 20 percent in my company;
- ☐ Are listed as a subcontractor on my bid or contract;
- ☐ Are a committee that I sponsor or control,

you are prohibited from making a contribution to the following City elective officers or candidates for City elective office: [fill in name of City elective officer or candidate for City elective office].

This prohibition will last from [date of commencement of negotiations] until the termination of negotiations or six months have elapsed from the date the contract is approved. I will advise you of the date that negotiations terminate or six months after the contract is approved. In the meantime, if you have questions, please contact me at [contact information].

Regulation 1.126-4: Filing Reports with the Ethics Commission.

(a) Every individual who holds a City elective office shall notify the Ethics Commission, within five business days of the approval of a contract by the officer, or by the board on which the officer sits, or by the board of a state agency on which an

appointee of the officer sits, of each contract so approved by filing Form SFEC-126 with the Ethics Commission.

(b) An individual who holds City elective office need not file Form SFEC-126 with the Ethics Commission if the clerk or secretary of the board on which the individual serves or the board of a state agency on which an appointee of the officer serves has filed a Form SFEC-126 on behalf of the board. The filer may attach a copy of the minutes that record the approval of a contract to the Form SFEC-126, so long as the minutes reflect the information required by the Form SFEC-126 and the filer signs the Form SFEC-126. If the board passes a resolution directing its clerk or secretary to file Form SFEC-126 and the clerk or secretary fails to do so, the City elective officer is not deemed to have violated section 1.126(c) unless the City elective officer has reason to know that Form SFEC-126 had not been filed. If the City elective officer is notified by the Ethics Commission that a Form SFEC-126 has not been filed, the City elective officer must file the form within 5 working days of such notice.

(c) The Commission will post information regarding such contracts on its website.

Regulation 1.126-5: Affiliated Entities.

Whenever a named party or prospective named party to a contract is prohibited from making a contribution under section 1.126, any affiliated entity (as defined in section 1.114(d)) of that named party or prospective name party is also prohibited from making a contribution under section 1.126.

Regulation 1.126-6: Approval as to Form.

A contract that "must be approved" by an individual does not include a contract that must be approved only as to form. If a contract must be approved as to form by the City Attorney's Office but is not otherwise required to be approved by the City Attorney, the contract does not trigger section 1.126.

Regulation 1.128-1: Acceptance or Rejection of Voluntary Expenditure Ceilings.

(a) Time for Filing; General Deadline. Any candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District may accept the applicable voluntary expenditure ceiling by filing the Every candidate for City elective office must file a Form SFEC-128 with the Ethics Commission indicating whether the candidate accepts or does not accept the applicable expenditure ceiling. The form must be filed no earlier than June 1 in a year where the election is held in November, or 120 days before an election held at any other time, and no later than the deadline for filing nomination papers.

(b) —Candidate Who Exceeds Spending Limit Before Nomination Deadline. A candidate who has made or incurred expenses for qualified campaign expenditures in excess of 100 percent of the applicable expenditure ceiling must file a Form SFEC-128 with the Ethics Commission by one of the following deadlines:

—— (1) If the expenses are made or incurred before June 1 of the year in which an election occurs in November, the candidate must file Form SFEC-128 no later than June 1 of the election year; or

—— (2) If the expenses are made or incurred on or after June 1 of the year in which an election occurs in November but before the deadline for filing nomination papers, the candidate must file Form SFEC-128 within 24 hours of reaching such threshold.

—— (3) If the expenses are made or incurred prior to the 120th day before the election for an election that occurs at a time other than in November, the candidate must file Form SFEC-128 no later than the 120th day before the election.

—— (4) If the expenses are made or incurred after the 120th day prior to an election but before the deadline for filing nomination papers for an election that occurs at a time other than in November, the candidate must file Form SFEC-128 within 24 hours of reaching such threshold.

(eb) A candidate may not accept the voluntary expenditure ceiling by filing Form SFEC-128 if the applicable ceiling has already been lifted under section 1.134.

(d) — In addition to filing Form SFEC-128, a candidate who seeks to participate in the public financing program must file a Declaration (Form SFEC-142(b)-1 for candidates for the Board of Supervisors or Form SFEC-142(b)-2 for candidates for Mayor) with the Ethics Commission to indicate that he or she agrees to accept the individual expenditure ceiling established for that candidate by the Ethics Commission.

(e) — Notice to Department of Elections and Public Notice. Within 24 hours after the deadline for filing nomination papers, the Executive Director shall notify the Department of Elections of which candidates have accepted the voluntary expenditure ceiling and shall also post this information on its website and issue a press release.

(f) — Failure to File. Failure to file Form SFEC-128 within the time frame specified in this section shall be deemed a rejection of the voluntary expenditure ceilings for the purposes of administering the CFRO. Failure to file shall also constitute a violation of section 1.128 and subject the nonfiler to applicable penalties.

(gc) Policy of the Commission. The Ethics Commission encourages all candidates to comply with the voluntary expenditure ceilings established in Campaign and Governmental Conduct Code Section section 1.130.

Regulation 1.130-1: Amount of Expenditure Ceilings; Adjustments.

(a) Under section 1.130(eg), the Commission is authorized to adjust the spending limits annually to reflect changes in the California Consumer Price Index ("CPI"). The spending limits under section 1.130 shall be adjusted as follows:

(1) The voluntary expenditure ceilings in section 1.130(a) and (db) shall be adjusted using the following formula: the voluntary expenditure ceiling amount in effect in October-2006 January 1, 2010, multiplied by the current CPI, divided by the base CPI from 2006-January 2010, rounded to the nearest one thousand dollars (\$1,000).¹ The

¹ For example, assume the California Consumer Price Index for All Urban Consumers for October-2006 January 2010 is 244-8225.8. Assume in October 2007 2010 the California CPI increased to 243-0227. Therefore Based on these figures, an adjusted expenditure ceiling beginning in January 1, 2008 2010 that

resulting figure shall be the adjusted voluntary expenditure limitation in effect for all elections for City elective offices except the Mayor and the Board of Supervisors.

(2) — The voluntary expenditure ceilings in section 1.130(b) shall be adjusted using the following formula: the voluntary expenditure ceiling amount in effect April 1, 2006, multiplied by the current CPI, divided by the base CPI from April 2006, rounded to the nearest five thousand dollars (\$5,000).² The resulting figure shall be the adjusted voluntary expenditure limitation in effect for elections for Mayor.

— (3) — The voluntary expenditure ceilings in section 1.130(c) shall be adjusted using the following formula: the voluntary expenditure ceiling amount in effect January 1, 2008, multiplied by the current CPI, divided by the base CPI from January 1, 2008, rounded to the nearest one thousand dollars (\$1,000). The resulting figure shall be the adjusted voluntary expenditure limitation in effect for elections for the Board of Supervisors.

(b) The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar year immediately preceding the year in which the adjustment is to take effect.

Regulation 1.130-2: Individual Expenditure Ceilings for Candidates.

A candidate for the Board of Supervisors or Mayor who has been certified as eligible for public funding may have his or her individual expenditure ceiling raised in accordance with section 1.134.5. Therefore, notwithstanding sections 1.130(b) and 1.130(c), any such candidate for the Board of Supervisors whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$140,000 and any such candidate for Mayor whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$1,375,000, provided that such expenditures may not exceed the candidate's individual expenditure ceiling.

Regulation 1.134-1: Reports by Candidates Who Do Not Accept Voluntary Expenditure Ceilings.

[Note: In addition to filing reports required by section 1.134, candidates for Mayor or the Board of Supervisors are required to file forms with the Ethics Commission under section 1.152 of the CFRO.]

Any candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District who declines to accept the voluntary expenditure ceiling and who receives contributions, makes qualified campaign expenditures, incurs expenses or has funds in his or her campaign contribution

was previously \$229,000 243,000 would be calculated as follows: $(\$229,000 \times 213/211.8 = \$230,000)$ $(\$230,297 - \$243,000 \times 227/225.8 = \$244,000)$ $(\$244,291 \text{ rounded to the nearest } \$1,000)$.

² For example, the California Consumer Price Index for All Urban Consumers for April 2006 is 210.5. Assume in October 2007 the California CPI increased to 213. 2. Therefore an adjusted expenditure ceiling beginning in 2008 that was previously \$1,375,000 would be calculated as follows: $(\$1,375,000 \times 213/210.5 = \$1,390,000)$ $(\$1,291,330 \text{ rounded to the nearest } \$5,000)$.

trust account that exceed 100 percent of the applicable expenditure ceiling must file Form SFEC-134(b) with the Ethics Commission within 24 hours of exceeding 100 percent of the applicable expenditure ceiling. A candidate need not file this form if the Ethics Commission has already lifted the applicable voluntary expenditure ceiling.

Regulation 1.134-2: Reports by Committees or Persons that *who* Make Independent Expenditures, Electioneering Communications and Member Communications.

~~[Note: This regulation ceases to apply in elections for the Mayor or Board of Supervisors if the Ethics Commission has certified at least one candidate for Mayor or the Board of Supervisors as eligible to receive public financing. Upon such certification, persons that *o* make independent expenditures, electioneering communications or member communications must file the forms specified in Regulations 1.152(a) 2 and 1.152(b) 2.]~~

(a) This regulation applies only to persons who make independent expenditures, electioneering communications or member communications that clearly identify a candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District.

*(b) Any person that *who* makes expenditures or payments or incurs expenses for the purpose of making independent expenditures, electioneering communications or member communications that clearly identify a candidate listed in subsection (a) for City elective office that in the aggregate equals or exceeds \$5,000 must file the Third Party Spending Form SFEC-134(e) with the Ethics Commission within 24 hours of making expenditures or payments or incurring expenses for the purposes of making independent expenditures, electioneering communications or member communications that, in the aggregate, equal or exceed \$5,000 per candidate.* ~~reaching this threshold.~~ A person need not file this form if the Ethics Commission has already lifted the applicable voluntary expenditure ceiling. Thereafter, until such time as the applicable expenditure ceiling is lifted, the person shall file the Third Party Spending Form SFEC-134(e) within 24 hours of every time such person makes expenditures or payments, or incurs expenses for the purpose of making independent expenditures, electioneering communications or member communications in support of or in opposition to any candidate for City elective office in the same race that in the aggregate equals or exceeds \$5,000 per candidate. For the purposes of section 1.134 and this regulation, the phrase “in support of or in opposition to” includes any communication that refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election.

Regulation 1.134-3: Lifting Voluntary Expenditure Ceilings.

An eligible candidate who has accepted a voluntary expenditure ceiling will no longer be bound by the voluntary expenditure ceiling if any of the following occurs:

- (1) a competing candidate seeking election to the same office, who has not accepted a voluntary expenditure ceiling, receives contributions or makes qualified campaign expenditures that total more than applicable voluntary expenditure ceiling;*
- (2) any competing candidate seeking election to the same office, or the candidate who accepted the voluntary expenditure ceiling, is clearly identified in campaign materials*

paid for by third parties, and the amount spent on those campaign materials total more than the applicable voluntary expenditure ceiling; or
(3) a competing candidate seeking election to the same office, who has accepted the voluntary expenditure ceiling, makes expenditures that total more than the applicable voluntary expenditure ceiling.

Example: Alice, Bob, and Chuck are running to become Assessor. Alice and Bob accept the applicable voluntary expenditure ceiling of \$243,000. Chuck does not accept the voluntary expenditure ceiling and spends \$250,000 in support of his campaign. Since Chuck's campaign has spent more than \$243,000, Alice and Bob are no longer bound by the voluntary expenditure ceiling.

Example: Dave and Eric are running to become Sheriff. Dave and Eric both accept the applicable voluntary expenditure ceiling of \$243,000. Several third parties have made expenditures, both in support and opposition, that identify Dave and comment on his candidacy – eventually these expenditures total \$260,000. Since the amount of third-party spending concerning a candidate for Sheriff has exceeded \$243,000, neither Dave nor Eric is bound by the voluntary expenditure ceiling.

Example: Frank and George are running to become members of the San Francisco School Board. Frank and George both accept the applicable voluntary expenditure ceiling of \$104,000. Despite accepting the voluntary expenditure ceiling, George spends more than \$104,000 on his campaign. Frank is no longer bound by the \$104,000 voluntary expenditure ceiling.

Regulation 1.135-1: Supplemental Reporting.

Committees that are required by section 1.112 to file electronically must also electronically file any report required by Section 1.135, provided that the Commission has prescribed the format for such report at least 60 days before the report is due.

Regulation 1.140-1: Eligibility to Receive Public Financing – “Candidate’s Previous Campaign Committee.”

For purposes of subsections 1.140(a)(3)-(4), a “candidate’s previous campaign committees” includes any campaign committee controlled by the candidate or committee for which the candidate served as treasurer or assistant treasurer.

Regulation 1.140-2: Eligibility to Receive Public Financing – Expenditure Ceiling.

A candidate who submits an application for public financing under section 1.142 but who is not yet certified as eligible to receive public financing is bound by the individual expenditure ceiling of \$140,000 143,000 for candidates for the Board of Supervisors or \$1,375,000 1,475,000 for candidates for Mayor until the earlier of the following occurs:

- (a) The Executive Director certifies the candidate as eligible to receive public funds and adjusts the individual expenditure ceiling of the candidate pursuant to section 1.134.5 1.143; or

(b) The Executive Director declines to certify the candidate as eligible to receive public funds and the candidate no longer wishes to participate in the public financing program; or

(c) The candidate withdraws and does not refile his or her application for public funds.

Regulation 1.140-3: Adjustments of Qualifying Limits and Thresholds—Board of Supervisors.

When the Ethics Commission adjusts the dollar thresholds in sections 1.140(b)(2) and (b)(3) to reflect changes in the California Consumer Price Index ("**CPI**"), such adjustments will be rounded off to the nearest \$500. The adjustments shall be made using the following formula: the threshold in effect on January 1, 2008, multiplied by the current CPI, divided by the base CPI from 2008, rounded to the nearest five hundred dollars (\$500). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figures shall be the adjusted thresholds in effect for all applicable elections held for the Board of Supervisors until the Commission next adjusts the thresholds.

Regulation 1.140-4: Adjustments of Qualifying Limits and Thresholds--Mayor.

When the Ethics Commission adjusts the dollar thresholds in sections 1.140(c)(2) and (c)(3) to reflect changes in the California Consumer Price Index ("**CPI**"), such adjustments will be rounded off to the nearest \$5,000. The adjustments shall be made using the following formula: the threshold in effect on January 1, 2007, multiplied by the current CPI, divided by the base CPI from 2006, rounded to the nearest five thousand dollars (\$5000). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the adjusted thresholds in effect for all applicable elections held for the Mayor until the Commission next adjusts the thresholds.

Regulation 1.140-5: Amount of Individual Expenditure Ceiling – Adjustments.

(a) The individual expenditure ceiling in section 1.140(b)(4) shall be adjusted using the following formula: the individual expenditure ceiling in effect on January 1, 2010, multiplied by the current California Consumer Price Index ("CPI**"), divided by the base CPI from January 2010, rounded to the nearest one thousand dollars (\$1,000).³ The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar immediately preceding the year in which the**

³ For example, assume the California Consumer Price Index for All Urban Consumers for January 2010 is 225.8. Assume in October 2010 the California CPI increased to 227.0. Based on these figures, an adjusted individual expenditure ceiling beginning in 2010 that was \$143,000 would be calculated as follows: $(\$143,000 \times 227/225.8 = \$144,000)$ (\$143,760 rounded to the nearest \$1,000).

adjustment is to take effect. The resulting figure shall be the adjusted individual expenditure ceiling in effect for elections for the Board of Supervisors.

(b) The individual expenditure ceiling in section 1.140(c)(4) shall be adjusted using the following formula: the individual expenditure ceiling in effect January 1, 2010, multiplied by the current California Consumer Price Index ("CPI"), divided by the base CPI from January 1, 2010, rounded to the nearest five thousand dollars (\$5,000). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the adjusted individual expenditure ceiling in effect for elections for the Mayor.

Regulation 1.140-5: Adjustment of Maximum Qualifying Contribution.

When the Ethics Commission adjusts the maximum amount of a contribution that constitutes a qualifying contribution for candidates under section 1.104 to reflect changes in the California Consumer Price Index, such adjustments shall be rounded off to the nearest \$10. The adjustments shall be made using the following formula: the maximum qualifying contribution amount in effect on January 1, 2007, multiplied by the current CPI, divided by the base CPI from 2006, rounded to the nearest ten dollars (\$10). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the maximum qualifying contribution amount in effect for all applicable elections held until the Commission next adjusts the amount.

Regulation 1.142-1: Statement of Participation or Non-Participation.

Each candidate for the Board of Supervisors or Mayor must file with the Ethics Commission Form SFEC-142(a) – Statement of Participation or Non-Participation in the Public Financing Program – no later than the deadline for filing nomination papers. The Statement shall be signed and verified by the candidate under penalty of perjury.

Regulation 1.142-2: Process for Establishing Eligibility; Filing Requirements.

(a) Filing Requirement.

Every candidate for the Board of Supervisors who wishes to become eligible to receive public financing must file Form SFEC-142(b)-1 (Declaration for Public Funds), Form SFEC-142(c)-1 (Qualifying Contributions List) and supporting material with the Ethics Commission no ~~sooner~~ **earlier** than nine (9) months before but no later than the 70th day before the date of the election.

Every candidate for Mayor who wishes to become eligible to receive public financing must file Form SFEC-142(b)-2 (Declaration for Public Funds), Form SFEC-142(c)-2 (Qualifying Contributions List), and supporting material with the Ethics Commission no ~~sooner~~ **earlier** than nine (9) months before and no later than the 70th day before the date of the election.

(b) Declaration by Candidate: Forms SFEC-142(b)-1 and SFEC-142(b)-2.

The information disclosed on Forms SFEC-142(b)-1 and SFEC-142(b)-2 (Declaration by Candidate) shall include but is not limited to the following: the names, mailing and email addresses, and telephone and facsimile numbers for the candidate and treasurer; a list of authorized persons to receive payments from the Election Campaign Fund; and a declaration under penalty of perjury by the candidate that he or she understands the requirements for participation in the public financing program.

(c) **Qualifying and Matching Contributions Lists.** The information disclosed on Forms SFEC-142(c)-1 and SFEC-142(c)-2 (Qualifying Contributions List) and Forms SFEC-144(a)-2 and 144(b)-2 (Matching Contributions List) shall include but is not limited to: each contributor's full name, the address of each contributor's primary residence, the total amount contributed by each contributor, the amount of each contributor's qualifying contribution, the date on which the candidate received each contributor's qualifying contribution, and the deposit batch number for each qualifying contribution. When the cumulative amount of contributions from any contributor equals or exceeds \$100, the information for any qualifying contribution from such contributor must also include the contributor's occupation, the contributor's employer or, if the contributor is self-employed, the name of the contributor's business. Candidates must file this information electronically as an attachment to an email or on a compact disc or floppy disk.

Regulation 1.142-3: Supporting Material ~~of~~ Required for Qualifying and Matching Contributions.

(a) The supporting material and information required under sections 1.142(b) and 1.144(f) shall include the following:

- 1) A copy of the deposit slip and deposit receipt for each qualifying or matching contribution.
- 2) Documentation showing that the a contribution exists was made, such as
 - i) for contributions made by check, a copy of the check itself written instrument demonstrating the contribution, such as a check and a listing of all contributions in a batch of deposited checks (each batch should be numbered);
 - ii) for contributions made by credit card, documentation from the credit card merchant showing the accountholder's name, the accountholder's billing address, the date the transaction was initiated, and the amount of the contribution; or
 - iii) for cash contributions, a signed and dated contributor card that includes the committee's name, the amount of the contribution, and the contributor's name and residential address in San Francisco residence address.

(b) In addition, the supporting material shall demonstrate ~~evidence of each contributor's primary residence.~~ A candidate may show that the contributor is a San Francisco resident by demonstrating that providing evidence of any of the following is true:

(1) the contributor uses a San Francisco address as the address on any bank account or any account with a financial institution, through the submission of copies of recent bank statements or personal checks listing the account holder's address;

(2) the contributor uses a San Francisco address as a billing address, through the submission of copies of recent credit card or utility bills;

(3) the contributor lives at a San Francisco address, through the submission of copies of a current deed or lease;

(4) the contributor uses a San Francisco address as a mailing address, through the submission of copies of recent mail received by the contributor;

(5) the contributor is currently registered to vote in San Francisco;

(6) the contributor has represented to a government agency that he or she lives at a San Francisco address, through the submission of copies of a driver's license, passport, government-issued identification card, or tax returns; or

(7) the contributor resides at a San Francisco address on a regular, ongoing basis, through the submission of any documents created or provided by a non-interested third-party that independently confirm that the contributor lives in San Francisco.

A candidate may not submit affidavits or declarations as proof of a contributor's residency in San Francisco.

Regulation 1.142-4: Verification of Qualifying and Matching Contributions.

Each claim for public funds shall be signed and verified under penalty of perjury by the eligible candidate. The candidate shall verify that the claim and supporting documentation are true and complete to the best of his or her knowledge, information and belief.

Regulation 1.142-5: Process For Establishing Eligibility; Irrevocability of Decision to Participate or Not Participate; Withdrawal Of Declaration.

(a) Irrevocability of Decision to Participate in the Public Financing Program after the Deadline for Filing Nomination Papers.

When a candidate submits Form SFEC-142(a), the statement of participation or non-participation pursuant to Section 1.142(a), the candidate agrees or declines to participate in the public financing program. This agreement is irrevocable. The candidate may not withdraw or amend his or her statement after the deadline for filing nomination papers. Under state law, a candidate must file his or her nomination papers no later than 88 days prior to the election. See Cal. Elec. Code § 10220.

(b) Withdrawal of Candidate Declaration Permitted until the 70th Day Before the Election.

When a candidate submits Forms SFEC-142(b)-1, SFEC-142(b)-2, SFEC-142(c)-1, SFEC-142(c)-2 and supporting material, under Section 1.142(b) to establish eligibility to receive qualify for public financing, the candidate may withdraw and refile the forms up until the 70th day before the election. After the 70th day before the election has passed, candidates are no longer permitted to withdraw and refile their forms. Although certified candidates are not obligated to accept public funds, such candidates must comply fully with the requirements imposed by Section 1.140 regardless of whether they accept public funds. Similarly, eligible certified candidates may not relieve themselves of their

obligations under Section 1.140 by ~~repaying previously received~~ returning public funds to the Election Campaign Fund.

Regulation 1.142-6: Certification.

(a) Executive Director's Determination.

(1) The Executive Director shall determine whether to certify a candidate no later than 30 days after the candidate submits the documents required under sections 1.142(a) and 1.142(b).

(2) Any candidate who files Form SFEC-142(a) indicating an intent to participate in the public financing program but who fails to file Form SFEC-142(b)-1 or SFEC-142(b)-2 by the 70th day before the election is ineligible to participate in the public financing program and the Executive Director shall notify the candidate that he or she is ineligible.

(3) The Executive Director may take whatever steps he or she deems necessary to determine whether to certify a candidate including, but not limited to, reviewing the materials submitted by a candidate, auditing a candidate's records, and interviewing a candidate's contributors. In addition, the Executive Director may require any candidate to file Form SFEC-152(a)-1 or SFEC-152(b)-1 in order to determine whether a candidate who seeks public financing is opposed by another candidate pursuant to section 1.140(b)(3) or 1.140(c)(3).

(b) Conditional Certification.

(1) The Executive Director may conditionally certify a candidate for the Board of Supervisors in order to comply with the 30-day requirement set forth in subsection (a) of this regulation and subsection (c) of section 1.142. The Executive Director may issue a conditional certification if a candidate for the Board of Supervisors has satisfied every requirement for certification except the requirement that the candidate be opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$5,000. A candidate who has received a conditional certification shall be eligible to begin to receive public financing at any time after the Executive Director determines that the candidate is opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$5,000. A conditional certification, by itself, does not establish that a candidate is eligible to receive public funds.

(2) The Executive Director may conditionally certify a candidate for the Mayor in order to comply with the 30-day requirement set forth in subsection (a) of this regulation and subsection (c) of section 1.142. The Executive Director may issue a conditional certification if a candidate for Mayor has satisfied every requirement for certification except the requirement that the candidate be opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$50,000. A candidate who has received a conditional certification shall be eligible to begin to receive public financing at any time after the Executive Director determines that the candidate is opposed by another candidate who has either established eligibility to receive public

financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$50,000. A conditional certification, by itself, does not establish that a candidate is eligible to receive public funds.

(c) Resubmission.

Any candidate who is notified by the Executive Director that the candidate is ineligible to receive public funding may, within five business days of the date of notification, resubmit his or her declaration and supporting documentation. If the candidate does not timely resubmit, the Executive Director's determination is final. If, after reviewing resubmitted materials, the Executive Director does not certify the candidate, the Executive Director shall notify the candidate of his or her final determination. Additional resubmissions may be permitted in the Executive Director's discretion, provided that no resubmissions for certification may be made later than the 60th day before the election. If the candidate fails to resubmit in the time specified by the Executive Director, or if no further resubmissions are permitted, the Executive Director's determination is final.

(d) Appeal to Commission.

A candidate may appeal to the Ethics Commission the Executive Director's final determination not to certify or conditionally certify a candidate. Either the Ethics Commission or a member of the Commission designated by the Commission may consider and decide such appeals. The candidate must deliver the written appeal to the Ethics Commission within five calendar days of the Executive Director's final determination.

Regulation 1.143-1: Individual Expenditure Ceilings for Candidates.

A candidate for the Board of Supervisors or Mayor who has been certified as eligible for public funding may have his or her individual expenditure ceiling raised in accordance with section 1.143. Any such candidate for the Board of Supervisors whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$143,000 and any such candidate for Mayor whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$1,475,000, provided that such expenditures may not exceed the candidate's individual expenditure ceiling.

Regulation 1.134.5-1.143-2: Lifting of Individual Expenditure Ceiling.

(a) The Executive Director will raise the individual expenditure ceiling of a candidate for the Board of Supervisors who has been certified as eligible to receive public funding when either the sum of the highest total supportive funds of any other candidate ~~or and~~ the total opposition spending against the candidate exceeds \$440,000 143,000. The Executive Director may only raise an individual expenditure ceiling only in increments of \$10,000. The Executive Director will review information provided on Forms SFEC-152(a)-1, SFEC-152(a)-2 and SFEC-152(a)-3, and in his or her discretion, any other relevant information to determine whether it is appropriate to raise the ~~an~~ individual expenditure ceiling.

(b) The Executive Director will raise the individual expenditure ceiling of a candidate for Mayor who has been certified eligible to receive public funding when either the sum of the highest total supportive funds of any other candidate ~~or~~ and the total opposition spending against the candidate exceeds ~~\$1,375,000~~ \$1,475,000. The Executive Director may only raise an individual expenditure ceiling, in increments of \$100,000. The Executive Director will review information provided on Forms SFEC-152(b)-1, SFEC-152(b)-2 and SFEC-152(b)-3, and in his or her discretion, any other relevant information to determine whether it is appropriate to raise the an individual expenditure ceiling.

Example: The Ethics Commission has certified four candidates running to represent District 1 on the Board of Supervisors as eligible to receive public funding. Reports filed at the Ethics Commission indicate that Candidate Alvin's supportive funds total \$150,000 and Candidate Beatrice's supportive funds total \$160,000, which are higher than the total supportive funds of either Candidate Charlie or Candidate Desmond. The Executive Director will raise the individual expenditure ceilings of Alvin, Charlie and Desmond by \$10,000 to ~~\$160,000~~ \$153,000. Because Alvin's supportive funds do not exceed Beatrice's individual expenditure ceiling by at least \$10,000, the Executive Director will not raise the \$143,000 individual expenditure ceiling of Beatrice to \$150,000.

Example: Total opposition spending against Beatrice reaches ~~\$160,000~~ \$10,000. To determine Beatrice's individual expenditure ceiling, the Executive Director first considers the highest level of supportive funding received by a competing candidate. Here, Alvin has the highest level of supportive funding received by a competing candidate - \$150,000. The Executive Director then adds the total opposition spending against Beatrice, or \$10,000, to obtain a sum of \$160,000. Based on these amounts the Executive Director will raise Beatrice's individual expenditure ceiling to \$153,000. The Executive Director cannot raise Beatrice's individual expenditure ceiling to \$160,000 because the ceiling may only be raised in \$10,000 increments. Because Beatrice's individual expenditure ceiling was already \$150,000, the Executive Director will raise her individual expenditure ceiling an additional \$10,000 to \$160,000.

Example: The Ethics Commission has certified four candidates running for Mayor as eligible to receive public funding. Reports filed at the Ethics Commission indicate that Candidate Ava's supportive funds total ~~\$1,475,000~~ \$1,575,000 and Candidate Barry's supportive funds total ~~\$1,600,000~~ \$1,700,000, which are higher than the total supportive funds of either Candidate Clare or Candidate Dave. The Executive Director will raise the individual expenditure ceilings of Ava, Clare and Dave to ~~\$1,575,000~~ \$1,675,000; the Executive Director will raise the individual expenditure ceiling of Barry to ~~\$1,475,000~~ \$1,575,000.

Example: Total opposition spending against Barry reaches \$1,600,000. Because Barry's individual expenditure ceiling was already \$1,475,000, the Executive Director will raise his individual expenditure ceiling an additional \$100,000 to \$1,575,000.

Example: The individual expenditure ceiling of James, a candidate ~~for~~ to represent district 2 on the Board of Supervisors who has been certified as eligible to receive public funding, is ~~\$440,000~~ 143,000. Adam, James's only opponent, reports total contributions of \$50,000; several committees also report spending a total of \$40,000 to support Adam. The Executive Director may not raise the individual expenditure ceiling of James based solely upon because Adam's total supportive funds because his total supportive funds, \$90,000, do not exceed James's individual expenditure ceiling ~~by at least~~ \$10,000.

Example: Adam has raised an additional \$65,000 in contributions, making his total supportive funds equal \$155,000. The Executive Director will now raise James's individual expenditure ceiling to ~~\$450,000~~ 153,000 because Adam's total supportive funds exceeds James's individual expenditure ceiling by between at least \$10,000, ~~and~~ \$20,000, and the The Executive Director may raise individual expenditure ceilings only in increments of \$10,000. ~~cannot raise James's individual expenditure ceiling to \$155,000 because the ceiling may only be raised in \$10,000 increments.~~

Example: Several committees make independent expenditures to oppose James; by September 2008~~2010~~, their reported expenditures total ~~\$185,000~~ \$20,000. Because James's individual expenditure ceiling was \$150,000, the Executive Director will now raise it to \$180,000 because the ~~total opposition spending to James exceeds~~ James's individual expenditure ceiling by between \$10,000 and \$40,000, and the Executive Director may raise the individual expenditure ceiling only in increments of \$10,000. To determine James's individual expenditure ceiling, the Executive Director adds Adam's total supportive funding, \$155,000, to the total opposition spending against James, \$20,000, to obtain a sum of \$175,000. The Executive Director will raise James's individual expenditure ceiling to \$173,000. The Executive Director cannot raise James's individual expenditure ceiling to \$175,000 because the ceiling may only be raised in \$10,000 increments.

Example: The individual expenditure ceiling of Jane, a candidate for Mayor who has been certified as eligible to receive public funding, is ~~\$1,375,000~~ 1,475,000. Ann, an opponent of Jane, reports total contributions of \$1,000,000; several committees also report spending a total of \$400,000 500,000 to support Ann. The Executive Director may not raise the Jane's individual expenditure ceiling ~~of Jane~~ because Ann's total supportive funds, ~~\$1,400,000~~ 1,500,000, do not exceed Jane's individual expenditure ceiling by at least \$100,000.

Example: Ann has raised an additional \$100,000 in contributions, making her total supportive funds ~~\$1,500,000~~ 1,600,000. The Executive Director will now raise Jane's individual expenditure ceiling to ~~\$1,475,000~~ 1,575,000 because Ann's total supportive funds exceeds Jane's individual expenditure ceiling by between at least \$100,000 and \$200,000, and the Executive Director may raise individual expenditure ceilings only in increments of \$100,000. The Executive Director cannot increase Jane's individual expenditure ceiling to \$1,600,000 because the ceiling may only be raised in \$100,000 increments.

Example: Several committees make independent expenditures to oppose Jane; by September 2011, their reported expenditures total \$1,700,000. ~~\$300,000.~~ Because Jane's individual expenditure ceiling was \$1,475,000, the Executive Director will now raise it to \$1,675,000 because the total opposition spending to Jane exceeds her individual expenditure ceiling by between \$100,000 and \$300,000, and the Executive Director may raise the individual expenditure ceiling only in increments of \$100,000. To determine Jane's individual expenditure ceiling, the Executive Director adds Ann's total supportive funding, \$1,600,000 to the total opposition spending against Jane, \$300,000, to obtain a sum of \$1,900,000. The Executive Director will raise Jane's individual expending ceiling to \$1,875,000. The Executive Director cannot raise Jane's individual expenditure ceiling to \$1,900,000 because the ceiling may only be raised in \$100,000 increments.

Regulation 1.134.5-2.1.143-3: Lifting of Individual Expenditure Ceilings: Requests for Independent Determination-Objection to Executive Director's Determination Whether a Communication Supports or Opposes a Candidate.

Any candidate for the Board of Supervisors or Mayor may request that the Executive Director make an independent determination whether a communication filed pursuant to section 1.152(a)(3) or 1.152(b)(3) actually supports or opposes a candidate or is neutral. Such requests must be filed within three business days from the date that the communication is filed with the Ethics Commission. Such requests must be filed on Form SFEC-134.5, identify the communication in question, and set forth reasons why the candidate believes that the communication supports or opposes a candidate or is neutral. Any objections to the Executive Director's initial determination of whether a communication supports or opposes a candidate must be filed on Form SFEC-143, identify the communication in question, and set forth reasons why the candidate disagrees with the Executive Director's determination.

Regulation 1.144(c)-1: Disbursement of Public Funds for Mayoral Candidates; Payments for Election Expenses for Candidates for Mayor Claims Submitted Before Executive Director Determines Per Candidate Available Disbursement Limit is Determined.

Until the per candidate available disbursement limit has been determined, candidates for Mayor who have been certified as eligible to receive public financing for their election campaigns shall have access to funds from the Election Campaign Fund on a first-come, first-served basis based on the date and time that each claim is received by the Ethics Commission. For claims submitted before the 59th day prior to the election, i.e., the date on which the Executive Director determines the per candidate available disbursement limit, publicly financed mayoral candidates shall have access to funds from the Election Campaign Fund on a first-come, first-served basis. The Ethics Commission will determine which claims are "first" for these purposes based upon the time that it receives claims, along with all of the required documentation.

Regulation 1.144(c)-2: Disbursement of Public Funds; ~~Payments for Election Expenses for Candidates for Mayor~~ Public Funds Available to Mayoral Candidates

After Executive Director Determines Per Candidate Available Disbursement Limit is Determined.

(a) If the Executive Director determines that the per candidate available disbursement limit in a mayoral election year is determined to be less than or equal to \$850,000900,000, each participating publicly financed mayoral candidate shall have access to funds from the Election Campaign Fund on a first-come, first-served basis, based on the date and time that each claim is received by the Ethics Commission, up to a maximum per candidate of \$850,000900,000. The Ethics Commission will determine which claims are "first" for these purposes based upon the time that it receives claims, along with all of the required documentation.

(b) If the Executive Director determines that the per candidate available disbursement limit is determined to be greater than \$850,000900,000, each participating publicly financed mayoral candidate shall have access to the amount of the per candidate disbursement limit up to the candidate's individual expenditure ceiling trust account limit. A candidate who has already received at least \$850,000900,000 may continue to receive public funds at the rate of one dollar for each dollar of a matching contribution raised up to the per candidate available disbursement limit, provided that no funds will be disbursed if the disbursement of funds will result in the candidate exceeding his or her trust account limit.

Regulation 1.144(c)-3: Submission of Claims for Public Funds Based on Matching Contributions – Candidates for Mayor.

After the initial payment made pursuant to section 1.144(c)(3)(A), the amount of additional public funds received by an eligible candidate depends on the amount of matching contributions raised by the candidate and documented in a timely claim submitted by the candidate to the Executive Director on Forms SFEC-144(c)-1 and SFEC-144(c)-2.

Regulation 1.144(d)-1: Disbursement of Public Funds for Supervisorial Candidates; Claims Submitted Payments for Election Expenses for Candidates for Board of Supervisors Before Executive Director Determines Per Candidate Available Disbursement Limit is Determined.

Until the per candidate available disbursement limit has been determined, candidates for the Board of Supervisors who have been certified as eligible to receive public financing for their election campaigns shall have access to funds from the Election Campaign Fund on a first-come, first-served basis based on the date and time that each claim is received by the Ethics Commission. For claims submitted before the 59th day prior to the election, i.e., the date on which the Executive Director determines the per candidate available disbursement limit, publicly financed supervisorial candidates shall have access to funds from the Election Campaign Fund on a first-come, first-served basis. The Ethics Commission will determine which claims are "first" for these purposes based upon the time that it receives claims, along with all of the required documentation.

Regulation 1.144(d)-2: Disbursement of Public Funds; Payments for Election Expenses for Candidates for the Board of Supervisors Public Funds Available to Supervisorial Candidates After Executive Director Determines Per Candidate Available Disbursement Limit is Determined.

(a) If the Executive Director determines that the per candidate available disbursement limit in a supervisorial election year is determined to be less than or equal to \$87,500~~89,000~~, each participating publicly financed supervisorial candidate shall have access to funds from the Election Campaign Fund on a first-come, first-served basis up to a maximum per candidate of \$87,500~~89,000~~. The Ethics Commission will determine which claims are "first" for these purposes based upon the time that it receives claims, along with all of the required documentation.

(b) If the Executive Director determines that the per candidate available disbursement limit in a supervisorial election year is determined to be greater than \$87,500~~89,000~~, each participating publicly financed candidate shall have access to the amount of the per candidate disbursement limit up to the candidate's individual expenditure ceiling trust account limit. A candidate who has already received at least \$87,500~~89,000~~ may continue to receive public funds at the rate of one dollar for each dollar of a matching contribution raised up to the per candidate available disbursement limit, provided that no funds will be disbursed if the disbursement of funds will result in the candidate exceeding his or her trust account limit.

Regulation 1.144(d)-3: Submission of Claims for Public Funds Based on Matching Contributions – Candidates for the Board of Supervisors.

After the initial payment made pursuant to section 1.144(d)(3)(A), the amount of additional public funds received by an eligible candidate depends on the amount of matching contributions raised by the candidate and documented in a timely claim submitted by the candidate to the Executive Director on Forms SFEC-144(d)-1 and SFEC-144(d)-2.

Regulation 1.144(f)-1: Schedule for Submission of Claims from Election Campaign Fund.

(a) Monetary Thresholds for Submission of Claims.

(1) Following certification, any submission of a claim for public funds by a candidate for the Board of Supervisors may be made on a rolling basis and must include a minimum of \$500~~1,000~~ in matching contributions, except that in the last 14 calendar days preceding an election, a claim must include a minimum of \$400~~200~~ in matching contributions. No candidate may submit a claim for public funds if the candidate has any such claim pending at the Ethics Commission.

(2) Following certification, any submission of a claim for public funds by a candidate for Mayor may be made on a rolling basis and must include a minimum of \$5,000 in matching contributions, except that in the last 14 calendar days preceding an election, a claim must include a minimum of \$1,000 in matching contributions. No candidate may submit a claim for public funds if the candidate has any such claim pending at the Ethics Commission.

(b) Process for Review of Claims

(1) Facial Review; Determination of Claims.

The Executive Director shall facially review each claim to determine whether the eligible candidate is entitled to payment of public funds. For purposes of this Regulation, "facial review" means review of the claim and supporting documentation submitted by the candidate. At the Executive Director's discretion, the Executive Director may conduct a further investigation into the accuracy and veracity of the candidate's claim and supporting documentation, including, but not limited to, interviews with contributors and review of additional supporting documentation.

The Executive Director shall not approve payment of public funds if he or she determines that the candidate's claim or supporting material is incomplete or otherwise inadequate. The Executive Director may, however, approve payment for less than the full amount claimed by the candidate if the candidate's claim and supporting documentation for a portion of the claim is complete and adequate.

The Executive Director's determination based upon facial review of a claim for public funds does not preclude the Ethics Commission from auditing the claimant, or demanding repayment of funds, pursuant to Section 1.150.

(2) Resubmission; Final Determination by the Executive Director.

If the Executive Director rejects a claim for public funds in whole or in part, the Executive Director shall notify the candidate and state the reasons for the rejection. The candidate may, within 24 hours of the date of notification, resubmit the rejected claim and supporting documentation. If the candidate does not timely resubmit, the Executive Director's determination is final. If, after viewing resubmitted material, the Executive Director rejects a claim for public funds, the Executive Director shall notify the candidate of this fact. Additional resubmissions may be permitted in the Executive Director's discretion. If the candidate fails to resubmit in the time specified by the Executive Director, or if no further resubmissions are permitted, the Executive Director's determination is final.

(3) Appeal to the Ethics Commission.

If the Executive Director rejects a claim for public funds in whole or in part, the candidate may appeal the Executive Director's final determination to the Ethics Commission, or a member of the Commission designated by the Commission to consider and decide such appeals. The candidate must deliver the written appeal to the Ethics Commission within three days of the date of the Executive Director's final determination.

(c) Payment by Controller; Payment Checks Available at Ethics Commission Office. Following a final determination, by either the Executive Director or the Ethics Commission, to approve a payment of public funds, the Executive Director shall immediately certify this fact to the Controller. Within ~~48 hours~~ two business days of notification from the Ethics Commission, the Controller shall issue checks for the approved payments and deliver the checks to the Ethics Commission, except that within

the last 60 15 calendar days preceding the election, the Controller shall issue checks for the approved payments and deliver the checks to the Ethics Commission within 24 hours one business day of notification. Eligible candidates, or their officially authorized designees, may pick up payment checks at the Ethics Commission office during regular business hours.

(d) Post-Election; General Rule.

Following the election, and continuing through the 30th day following the date of the election, eligible candidates may continue to submit claims for public funds. Eligible candidates may submit these post-election claims on a rolling basis.

Regulation 1.148-1: Restrictions on Use of Public Funds; Purchase of Equipment.

(a) Ownership of Equipment.

Any equipment purchased by a candidate with public funds that has a useful life beyond the election campaign for which the funds were provided, and a fair market value exceeding \$100, becomes City and County property on the day following the date the candidate is elected, defeated, withdraws, or fails to qualify as a candidate.

(b) Disclosure of Purchased Equipment.

Within 30 days of the date the candidate is elected, defeated, withdraws, or fails to qualify as a candidate, the candidate shall file Form SFEC 148(b) with the Ethics Commission, which shall contain a complete list of all equipment purchased by the candidate. The list shall include a good faith estimate of the fair market value of each piece of equipment, and state whether the candidate used public funds to purchase the equipment.

(c) Surrender of Purchased Equipment.

(1) The Executive Director may permit candidates to retain equipment purchased with public funds until the deadline for filing the first semi-annual campaign disclosure statement for the calendar year immediately following the election, or the date the candidate files the first semi-annual campaign disclosure statement for the calendar year immediately following the election, whichever is sooner.

(2) The Executive Director shall advise candidates regarding how and to whom to surrender property purchased with public funds.

Regulation 1.148-2: Restrictions on Use of Public Funds; Expenses that Do Not Affect the Outcome of the Election.

Candidates who receive public funds may only use such funds to pay for qualified campaign expenditures, as defined in section 1.104, except that such candidates may use public funds to pay for a limited range of expenses incurred after the election that do not directly affect the outcome of the election. This limited range of post-election expenses includes any pro-rata costs of post-election rent and utility bills that accrue until the campaign office is closed or 30 days after the election, whichever is sooner; expenses associated with the Ethics Commission's audit of the campaign committee; and expenses related to preparing and filing post-election campaign finance disclosure reports as required by the California Political Reform Act and the San Francisco Campaign Finance Reform Ordinance. Public funds may not be used to hold celebrations or events to

celebrate a victory or to thank campaign volunteers. Public funds may also not be used for any post-election advertising, announcements or notices.

Regulation 1.152(a)-1: Supplemental Reporting in Elections for the Board of Supervisors – Candidates.

(a) Each candidate for the Board of Supervisors must file Form SFEC-152(a)-1 to indicate when the candidate has received contributions, made expenditures or has funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$5,000 within 24 hours of reaching or exceeding that limit.

(b) Thereafter, each candidate for the Board of Supervisors must file a Form SFEC-152(a)-2 to indicate when the candidate has received contributions, made expenditures or has funds in his or her Campaign Contribution Trust Account that in the aggregate equal or exceed \$100,000, within 24 hours of reaching or exceeding the threshold.

(c) Thereafter, each candidate for Board of Supervisors must file Form SFEC-152(a)-2 to indicate every time that the candidate has received additional contributions, has made additional expenditures or has additional funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$10,000, within 24 hours or reaching or exceeding that threshold.

Regulation 1.152(a)-2: Supplemental Reporting for Elections for the Board of Supervisors – Persons Other than Candidates.

(a) Any person that *who* makes independent expenditures, electioneering communications or member communications that clearly identify a candidate for the Board of Supervisors and that in the aggregate equal or exceed \$5,000 *per candidate*, must, within 24 hours of reaching or exceeding the threshold, file an original a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video and the Form SFEC-152(a)-3 Third Party Spending Form with the Ethics Commission.

(b) Thereafter, any time that the person makes or incurs expenses of \$5,000 or more *per candidate* for the purpose of making independent expenditures, electioneering communications or member communications that clearly identify a candidate for the Board of Supervisors, the person must file the Third Party Spending Form SFEC-152(a)-3 and an original a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video with the Ethics Commission within 24 hours of reaching or exceeding the threshold.

(c) On the Third Party Spending Form SFEC-152(a)-3, the person must state the costs of the communication, list the candidate or candidates for the Board of Supervisors who are identified in the communication, and indicate whether the communication is intended to support or oppose the candidate or candidates, or whether the communication is intended to be neutral. No independent expenditure may be deemed neutral.

Regulation 1.152(b)-1: Supplemental Reporting in Elections for Mayor – Candidates.

(a) Each candidate for Mayor must file Form SFEC-152(b)-1 to indicate when the candidate has received contributions, made expenditures or has funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$50,000 within 24 hours of reaching or exceeding that limit.

(b) Thereafter, each candidate for Mayor must file Form SFEC-152(b)-2 to indicate when the candidate has received contributions, made expenditures or has funds in his or her Campaign Contribution Trust Account that in the aggregate equal or exceed \$1,000,000, within 24 hours of reaching or exceeding the threshold.

(c) Thereafter, each candidate for Mayor must file Form SFEC-152(b)-2 to indicate every time that the candidate has received additional contributions, has made additional expenditures or has additional funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$50,000, within 24 hours of reaching or exceeding that threshold.

Regulation 1.152(b)-2: Supplemental Reporting for Elections for Mayor – Persons Other than Candidates.

(a) Any person that *who* makes independent expenditures, electioneering communications or member communications that clearly identify a candidate for Mayor and that in the aggregate equal or exceed \$5,000 *per candidate*, must, within 24 hours of reaching or exceeding the threshold, file an original *a legible* copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video and the *Third Party Spending* Form SFEC-152(b)-3 with the Ethics Commission.

(b) Thereafter, any time that the person makes or incurs expenses of \$5,000 or more *per candidate* for the purpose of making independent expenditures, electioneering communications or member communications that clearly identify a candidate for Mayor, the person must file the *Third Party Spending* Form SFEC-152(b)-3 and an original *a legible* copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video with the Ethics Commission within 24 hours of reaching or exceeding the threshold.

(c) On the *Third Party Spending* Form SFEC-152(b)-3, the person must state the costs of the communication, list the candidate or candidates for Mayor who are identified in the communication, and indicate whether the communication is intended to support or oppose the candidate or candidates, or whether the communication is intended to be neutral. No independent expenditure may be deemed neutral.

Regulation 1.161(a)-1: Filing Requirements for Mass Mailings by Candidates.

(a) To comply with the filing requirements set forth in section 1.161, candidates must use Filing Requirement. Except during the final 16 days before an election, each candidate for City elective office who pays for a mass mailing with campaign funds shall, within five working days after the date of the mailing, file with the Ethics Commission

two of the original pieces of the mailing and an itemized disclosure statement (Form SFEC-161(a)).

(b) During the final 16 days before an election, each candidate for City elective office who pays for a mass mailing with campaign funds shall, within 48 hours of the mailing, file with the Ethics Commission two of the original pieces of the mailing and an itemized disclosure statement (Form SFEC-161(a)). For the purposes of section 1.161, "working day" shall mean "business day."

(c) Estimated Costs of Mass Mailings. Candidates who do not know actual costs associated with a mass mailing when they file Form SFEC-161(a) may provide a good faith estimate, provided that they amend the statement within 48 hours of receiving more information about the actual costs of the mass mailing.

(d) Date of the Mailing. For the purposes of Section 1.161(a), the phrase, "date of the mailing" shall mean the date on which the candidate or the candidate's agent delivers the mass mailing to the United States Postal Service for delivery.

Regulation 1.161(b)-1: Filing Requirements for Mass Mailings by Persons Other than Candidates.

(a) To comply with the filing requirements set forth in section 1.161(b), non-candidates must use the Third Party Spending Form. Filing Requirement. Except during the final 16 days before an election, each person who makes independent expenditures of \$1,000 or more to pay for a mass mailing that supports or opposes any candidate for City elective office shall, within five working days after the date of the mailing, file with the Ethics Commission two of the original pieces of the mailing and an itemized disclosure statement (Form SFEC-161(b)).

(b) During the final 16 days before an election, each person who makes an independent expenditure of \$1,000 or more to pay for a mass mailing that supports or opposes any candidate for City elective office shall, within 48 hours of the mailing, file with the Ethics Commission two of the original pieces of the mailing and an itemized disclosure statement (Form SFEC-161(b)).

(b) Estimated Costs of Mass Mailings. Persons who do not know the actual costs associated with a mass mailing when they file the Third Party Spending Form SFEC-161(b) may provide a good faith estimate, provided that they amend the statement within 48 hours of receiving more accurate information about the actual costs of the mass mailing.

(d) Date of the Mailing. For the purposes of Section 1.161(b), the phrase, "date of the mailing" shall mean the date on which the person or person's agent delivers one or more pieces of the mass mailing to the United States Postal Service.

Regulation 1.161.5-1. Electioneering Communications.

(a) To comply with the filing requirements set forth in section 1.161.5, persons must use the Third Party Spending Form. Filing requirement. Every person who makes payments, including any enforceable promises to make payments, for electioneering communications in an aggregate amount of \$1,000 or more during any calendar year shall, within 48 hours of each disclosure date, file an itemized statement on Form SFEC-161.5 with the Ethics Commission.

(b) Persons who do not know the actual payments made, including enforceable promises to make a payment, for *costs of* an electioneering communication when they file *the Third Party Spending* Form SFEC-161.5 may provide a good faith estimates of the amount of any such payments, provided that they amend the statement within 48 hours of receiving more accurate information about the costs of the electioneering communication.

(bc) Every person who files *the Third Party Spending* Form SFEC-161.5 with the Ethics Commission must submit at the time of the filing a legible copy of the electioneering communication if in printed form, a full transcript of the electioneering communication if in spoken form, and a legible paper or electronic photograph of the electioneering communication if in billboard form.

(c) Filing Form SFEC-161.5 electronically.

Filing itemized statements electronically. Any person who has made payments for electioneering communications in an amount of \$5,000 or more in a calendar year shall electronically file Form SFEC-161.5, provided that the Commission has prescribed the format for such report at least 60 days before the report is due.

(de) Definitions. For the purposes of Section 1.161.5, the following terms and phrases shall mean:

(1) "Candidate debate or forum" shall mean an event at which a candidate for City elective office makes a speech or participates in a panel discussion.

(2) "Communications to all members, employees and shareholders of an organization" shall include communications such as newsletters, letters, fliers, e-mails or similar material distributed to all members, employees or shareholders of an organization, but shall not include communications that constitute general public advertising such as broadcast, cable, satellite or radio communications, billboards, signs, or newspaper and magazine and Internet advertisements.

(A) An "organization," other than a political party, means a sole proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, limited liability partnership, association, labor union and any other organization or group of persons acting in concert, including a committee as defined by California Government Code section 82013, but excluding a candidate or individual.

(B) "Member" means any person who, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote directly or indirectly for the election of a director or directors or an officer or officers, or on a disposition of all or substantially all of the assets of the organization, or on a merger or on a dissolution. "Member" also means any person who is designated in the articles or bylaws as a member and, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote on changes to the articles or bylaws, or pays or has paid membership dues in an amount predetermined by the organization so long as the organization is tax exempt under 26 U.S.C. 501, subdivision (c). Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.

(C) A person is not a "member" of an organization if the person is only on a mailing, contact, or e-mail distribution list of the organization without meeting the definition provided in subdivision (2)(B) of this regulation.

(D) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(3) "Internet Communication" shall include communications made via the internet, such as internet advertisements, websites, or e-mail messages, provided that an

"internet communication" shall not include communications designed, posted, or sent without compensation. Internet communications shall not include any communications made in a web blog, e-mail messages sent to persons who have voluntarily provided their e-mail addresses to the sender, a discussion forum, or a general posting on a web page.

(4) "Sharing or exercising direction and control" shall mean the officers, directors, executive directors or their equivalent, partners, and, in the case of unincorporated organizations, owners of the entity or individuals making or authorizing the disbursement for the electioneering communication.

Regulation 1.172-1. Extension of Deadlines that Fall on Weekends and Holidays.

(a) Except as otherwise provided in Regulation 1.172-1(b) and (e), when a filing deadline under Chapter 1 of the Campaign and Governmental Conduct Code falls on a weekend day or holiday, the deadline will be extended until the next business day during which the Ethics Commission is open. For purposes of this regulation, the term "weekend" means Saturday and Sunday and the term "holiday" means any holiday on which the Ethics Commission is authorized by law to close.

(b) The deadline will not be extended for campaign reports that are due during the late reporting period or the last sixty (60) days before an election.

Regulation 1.174-1: Notification to Director of Elections, the Board of Supervisors and the Public.

The Executive Director shall notify the Director of Elections, the Board of Supervisors and the public via a posting on the Commission website and a press release, within 24 hours of the date the Director of Elections submits a certified statement of the results of the election to the Board of Supervisors, whether each candidate who according to the certified statement of results has been elected to a City elective office has filed all required campaign declarations, statements or reports.

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San Francisco Campaign and Governmental Conduct Code
(Amendments operative January 1, 2010)

CHAPTER 1: CAMPAIGN FINANCE

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SEC. 1.100. PURPOSE AND INTENT.

(a) Huge sums of moneys often are necessary to finance American election campaigns. Inherent to the high cost of election campaigning is the problem of improper influence, real or potential, exercised by campaign contributors over elected officials. In addition, this fundraising distracts public officials seeking reelection from focusing upon important public matters, encourages contributions which may have a corrupting influence, gives incumbents an unfair fundraising advantage over potential challengers, and provides contributors with greater access to public officials than other members of the public. These developments undermine the integrity of the governmental process and the competitiveness of campaigns. The amount of money raised by many candidates and committees supporting or opposing candidates also erodes public confidence in local officials by creating the appearance that elected officials may be unduly influenced by contributors who support their campaigns or oppose their opponents' campaigns.

(b) It is the purpose and intent of the People of the City and County of San Francisco in enacting this Chapter to:

- (1) Place realistic and enforceable limits on the amount individuals may contribute to political campaigns in municipal elections and to provide full and fair enforcement of all the provisions in this Chapter;
- (2) Ensure that all individuals and interest groups in our city have a fair opportunity to participate in elective and governmental processes;
- (3) Create an incentive to limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes beyond the amount necessary to communicate reasonably with voters;
- (4) Reduce the advantage of incumbents and thus encourage competition for elective office;
- (5) Allow candidates and officeholders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents' community;
- (6) Ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns;

- (7) Limit contributions to candidates and committees, including committees that make independent expenditures, to eliminate or reduce the appearance or reality that large contributors may exert undue influence over elected officials;
- (8) Assist voters in making informed electoral decisions and ensure compliance with campaign contribution limits through the required filing of campaign statements detailing the sources of campaign contributions and how those contributions have been expended;
- (9) Make it easier for the public, the media and election officials to efficiently review and compare campaign statements by requiring committees that meet certain financial thresholds to file copies of their campaign statements on designated electronic media;
- (10) Help restore public trust in governmental and electoral institutions; and
- (11) Help ensure the integrity of the election process by prohibiting campaign advertisements that contain false endorsements of current and former public officials, candidates, political clubs, and organizations. Such false endorsements undermine the integrity of the electoral process by misleading and confusing voters about the actual support for or opposition to candidates or ballot measures and it is too burdensome for individual voters, inundated with campaign messages, to verify the accuracy of such claims and for persons whose positions are misrepresented to correct the misrepresentations close in time to the election.

(c) This Chapter is enacted in accordance with the terms of Sections 5 and 7 of Article XI of the Constitution of the State of California and Section 1.101 of the Charter of the City and County of San Francisco.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009) (Derivation Former Administrative Code Section 16.501; amended by Ord. 114-76, App. 4/2/76; Proposition N, 11/7/95)

SEC. 1.102. CITATION.

This Chapter may be cited as the San Francisco Campaign Finance Reform Ordinance. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000) (Derivation Former Administrative Code Section 16.502; amended by Ord. 114-76, App. 4/2/76; Proposition N, 11/7/95)

SEC. 1.103. AMENDMENT OR REPEAL OF CHAPTER.

The voters may amend or repeal this Chapter. The Board of Supervisors may amend this Chapter if all of the following conditions are met:

- (a) The amendment furthers the purposes of this Chapter;
- (b) The Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;
- (c) The proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and
- (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

(Added by Ord. 3-06, File No. 051439, App. 1/20/2006)

SEC. 1.104. DEFINITIONS.

Whenever in this Chapter the following words or phrases are used, they shall mean:

- (a) "Candidate" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq., but shall include only candidates for City elective office.
- (b) "Candidate committee" shall mean a committee controlled by a candidate, and primarily formed to support that candidate's election for City elective office.
- (c) "Charitable organization" shall mean an entity exempt from taxation pursuant to Title 26, Section 501 of the United State Code.
- (d) "City elective office" shall mean the offices of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, Member of the Board of Education of the San Francisco Unified School District and Member of the Governing Board of the San Francisco Community College District. The Board of Supervisors consists of eleven separate City elective offices, the San Francisco Community College District consists of seven separate City elective offices, and the Board of Education of the San Francisco Unified School District consists of seven separate City elective offices.
- (e) "Code" shall mean the San Francisco Campaign and Governmental Conduct Code.
- (f) "Committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq.
- (g) "Contribution" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq.; provided, however, that "contribution" shall include loans of any kind or nature.
- (h) "Controlled committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000, et seq.
- (i) "Election" shall mean any general, or special municipal election held in the City and County of San Francisco for City elective office or for a local measure, regardless of whether the election is conducted by district or Citywide.
- (j) "Enforcement authority" shall mean the District Attorney for criminal enforcement, the City Attorney for civil enforcement, and the Ethics Commission for administrative enforcement. Nothing in this Chapter shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this Chapter under any circumstances where such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.
- (k) "Ethics Commission" shall mean the San Francisco Ethics Commission.
- (l) "Executive Director" shall mean the Executive Director of the Ethics Commission, or the Executive Director's designee.
- (m) "General purpose committee" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 et seq.
- (n) "Independent expenditure" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 et seq. An expenditure is not considered independent and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf or for whose benefit the expenditure is made, if the expenditure is made at the request, suggestion, or direction of, or in

cooperation, consultation, concert or coordination with, the candidate on whose behalf, or for whose benefit, the expenditure is made.

(o) "Individual Expenditure Ceiling" shall mean the expenditure ceiling established for each individual candidate for Mayor or the Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds under this Chapter.

(p) "Itemized disclosure statement" shall mean a form promulgated by the Ethics Commission that provides a detailed description of the separate costs associated with a communication, including but not limited to photography, design, production, printing, distribution, and postage.

(q) "Mass mailing" shall be defined as set forth in the California Political Reform Act, California Government Code section 81000 et seq., provided that the mass mailing advocates for or against one or more candidates for City elective office.

(r) "Matching contribution" shall mean a contribution up to \$500 made by an individual, other than the candidate, who is a resident of San Francisco. Matching contributions shall not include loans, contributions received more than 18 months before the date of the election, qualifying contributions or contributions made by the candidate's spouse, registered domestic partner or dependent child. Matching contributions must also comply with all requirements of this Chapter. Matching contributions under \$100 that are not made by written instrument must be accompanied by written documentation sufficient to establish the contributor's name and address. The Ethics Commission shall set forth, by regulation, the types of documents sufficient to establish a contributor's name and address for the purpose of this subsection.

(s) "Measure" shall mean any City, San Francisco Unified School District or San Francisco Community College District referendum, recall or ballot proposition, whether or not it qualifies for the ballot.

(t) "Member communication" shall mean a communication made by an organization or its committee for the publication, dissemination or communication to the organization's members, employees or shareholders, or to the families of the organization's members, employees or shareholders by newsletter, letter, flyer, e-mail or similar written or spoken material, that supports or opposes a candidate or measure.

(u) "Person" shall mean any individual, partnership, corporation, association, firm, committee, club or other organization or group of persons, however organized.

(v) "Qualified campaign expenditure" for candidates shall mean all of the following:

(1) Any expenditure made by a candidate, or by a committee controlled by the candidate, for the purpose of influencing or attempting to influence the actions of the voters for the election of the candidate to City elective office.

(2) A nonmonetary contribution provided to the candidate, officeholder or committee controlled by the candidate.

(3) The total cost actually paid or incurred by the candidate or controlled committee of the candidate for a slate mailing or other campaign literature produced or authorized by more than one candidate.

(4) Expenses incurred, but for which payment has not yet been made.

(5) Expenses associated with complying with applicable laws, including but not limited to the California Political Reform Act, California Government Code Section 81000, et seq., and the provisions of this Chapter.

(6) "Qualified campaign expenditure" shall not include filing fees, expenses incurred in connection with an administrative or judicial proceeding, payments for administrative, civil or criminal fines, including late filing fees, costs incurred after the election that do not directly affect the outcome of the election, including but not limited to utility bills, expenses associated with an audit, and expenses related to preparing post-election campaign finance disclosure reports as required by the California Political Reform Act, California Government Code Section 81000, et seq., and the provisions of this Chapter, or for inaugural activities or officeholder expenses.

(w) "Qualifying contribution" shall mean a contribution of not less than \$10 and not more than \$100 that is made by an individual who is a resident of San Francisco and that complies with all requirements of this Chapter. Qualifying contributions shall not include loans, contributions received more than 18 months before the date of the election or contributions made by the candidate or the candidate's spouse, registered domestic partner or dependent child. Qualifying contributions under \$100 that are not made by written instrument must be accompanied by written documentation sufficient to establish the contributor's name and address. The Ethics Commission shall set forth, by regulation, the types of documents sufficient to establish a contributor's name and address for the purpose of this subsection.

(x) "Recorded telephone message" shall mean a recorded audio message that expressly supports or opposes a candidate for City elective office that is distributed by telephone.

(y) "Surplus funds" shall mean funds remaining in a candidate's campaign account at the time the candidate leaves City elective office, or at the end of the post-election reporting period following the defeat of the candidate for City elective office, whichever occurs last, and funds remaining in the campaign account of a committee primarily formed to support or oppose a measure at the end of the post-election reporting period following the election at which the measure appeared on the ballot.

(z) "Total Opposition Spending" shall mean the sum of any expenditures made or expenses incurred by any person or persons for the purpose of making independent expenditures, electioneering communications or member communications in opposition to a specific candidate for Mayor or the Board of Supervisors.

(aa) "Total Supportive Funds" shall mean the sum of all contributions received by a candidate committee supporting a candidate for Mayor or the Board of Supervisors, other than any funds in the candidate's Campaign Contingency Account exceeding the candidate committee's Trust Account Limit, plus the expenditures made or expenses incurred by any person or persons for the purpose of making independent expenditures, electioneering communications or member communications in support of that same candidate.

(bb) "Trust Account Limit," shall mean the amount of funds in the Campaign Contribution Trust Account of a candidate committee supporting a candidate for Mayor or the Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds under this Chapter such that the expenditure of this amount would cause the candidate to reach, but not exceed, the candidate's Individual Expenditure Ceiling. The Trust Account Limit shall be reduced as the candidate spends money and shall be increased when his or her Individual Expenditure Ceiling increases.

(cc) "Unexpended public funds" shall mean all funds remaining in the candidate committee's account on the 30th day after the candidate controlling the committee is

either elected or not elected to office, regardless of the source of the funds, but shall not exceed the amount of public funds provided to the candidate. Funds raised after this date are not unexpended funds.

(dd) "Voter" shall mean an individual registered to vote in San Francisco.

(ee) "Withdrawal" or "withdraw" shall mean, prior to an election, ending one's candidacy or failing to qualify for an office for which a candidate has solicited or accepted contributions.

(ff) "Written instrument" shall mean a check, credit card receipt, or record of electronic transfer of funds.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 187-01, File No. 010779, App. 8/31/2001; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009) (Derivation Former Administrative Code Section 16.503; amended by Ord. 361-80, App. 8/5/80; Ord. 365-94 App. 10/28/94; Proposition N, 11/7/95)

SEC. 1.106. ADOPTION OF GENERAL LAW--EXCEPTIONS.

Except as otherwise provided in, or inconsistent with, this Chapter or other provisions of local law, the provisions of the Government Code of the State of California (commencing at Section 81000), relating to local elections including any subsequent amendments, are hereby incorporated as part of this Chapter.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003) (Derivation: Former Administrative Code Section 16.504; amended by Ord. 114-76, App. 4/2/76)

SEC. 1.107. TRAINING FOR CANDIDATES AND TREASURERS.

(a) Training Requirements.

(1) Candidates. Every candidate for City elective office and his or her treasurer shall attend a training program conducted or sponsored by the Ethics Commission within one year prior to any election at which the candidate's name will appear on the ballot.

(2) Treasurers. Every committee treasurer shall attend the next training program conducted or sponsored by the Ethics Commission after the date the committee files either its original statement of organization or an amendment to a statement of organization designating a new treasurer.

(b) Exception. An individual who serves as the treasurer for more than one committee is not required to attend a training required by Subsection (a) if that individual has attended such a training within the previous 12 months.

(c) Definition. For the purposes of this section, "committee" shall mean any committee that: (1) qualifies as committee pursuant to subdivision (a) of Section 82013 of the California Government Code; and (2) is required to file its semi-annual campaign statements with the Ethics Commission.

(Added by Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.108. CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS AND CAMPAIGN CONTINGENCY ACCOUNTS.

(a) CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS.

- (1) Establishment of Account. Each treasurer for a candidate committee shall establish a Campaign Contribution Trust Account for the candidate committee at an office of a bank located in the City and County of San Francisco. All expenditures by the candidate committee for the City elective office sought shall be made from that account.
- (2) Prohibition on Multiple Officeholder Accounts. All funds, services or in-kind contributions received by a candidate committee for expenses incurred directly in connection with carrying out the candidate's usual and necessary duties of holding office shall be deposited, credited or otherwise reported to the candidate committee's Campaign Contribution Trust Account. Such contributions shall be subject to the contribution limits in Section 1.114 of this Chapter. An elected officeholder may not establish or control any other committees or accounts for the purpose of making officeholder expenses. Nothing in this Section shall prohibit an officer from spending personal funds on official activities.
- (3) Account Limits. A candidate committee controlled by a candidate for Mayor or the Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds under this Chapter shall not, at any time before the date of the election for which the candidate has been certified, have an amount of funds greater than the candidate committee's Trust Account Limit in its Campaign Contribution Trust Account, unless those contributions are immediately transferred into the candidate committee's Campaign Contingency Account.

(b) CAMPAIGN CONTINGENCY ACCOUNTS FOR CANDIDATE COMMITTEES FOR MAYOR AND THE BOARD OF SUPERVISORS.

- (1) Notwithstanding any other section of this Code, including Subsection (a)(2), a candidate committee controlled by a candidate for Mayor or the Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds under this Chapter may maintain a Campaign Contingency Account separate from its Campaign Contribution Trust Account into which it may deposit money contributions in anticipation that the Ethics Commission will raise the candidate's Individual Expenditure Ceiling. All money contributions deposited into this account shall be reported as if it were deposited into the candidate committee's Campaign Contribution Trust Account.
- (2) No candidate committee may deposit any funds into its Campaign Contingency Account if the amount of funds in the candidate committee's Campaign Contribution Trust Account is less than the candidate committee's Trust Account Limit.
- (3) No expenditures shall be made from a Campaign Contingency Account established pursuant to this section. Funds may be transferred from the candidate committee's Campaign Contingency Account to the candidate committee's Campaign Contribution Trust Account, provided that the amount of funds in the Campaign Contribution Trust Account does not exceed the candidate committee's Trust Account Limit. All funds that qualify as matching contributions and are transferred from the Campaign Contingency Account to the Campaign Contribution Trust Account shall be eligible to be matched with public funds in accordance with the procedures set forth in this Chapter. Within ten

days after the date of the election, the candidate committee shall turn over all funds in the Campaign Contingency Account to the Election Campaign Fund.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.505; amended by Ord. 114-76, App. 4/2/76; Proposition N, 11/7/95; Ord. 386-95, App. 12/14/95; Ord. 74-08, File No. 080278, App. 4/30/2008)

SEC. 1.109. RETENTION OF RECORDS.

(a) All candidates and committees that are required to file statements prescribed by this Chapter shall maintain detailed accounts, records, bills, and receipts as necessary to prepare those statements. Each candidate or committee shall retain for a period of four years detailed information and original source documentation supporting those statements. The Ethics Commission may by regulation describe the information and documentation required to be retained for each type of statement.

(b) Within ten business days of a request by the Ethics Commission, a committee shall provide the Ethics Commission with any documents required to be retained under this Section or state law, including but not limited to California Code of Regulations, Title 2, section 18401 and any subsequent amendments, modifications or administrative or judicial interpretations of that regulation. When the Ethics Commission requests documents under this subsection, it shall provide the committee with the reasons for the request in writing.

(Added Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.110. CAMPAIGN STATEMENTS--PUBLIC ACCESS.

(a) **INSPECTION AND COPYMAKING.** Campaign statements are to be open for public inspection and reproduction at the office of the Ethics Commission during regular business hours and such additional hours as the Ethics Commission determines appropriate. The Commission shall provide public notice of the hours that the office is open for inspection and reproduction.

(b) **RETENTION.** Every campaign statement required to be filed in accordance with Section 1.106 shall be preserved by the Ethics Commission for the period required under Section 81009 of the California Government Code and any subsequent amendments thereto, or such additional periods as the Ethics Commission determines appropriate, provided that the period of retention is not less than eight years from the date the statement was required to be filed.

(Formerly Secs. 1.110 and 1.112; added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003) (Derivation: Former Administrative Code Section 16.506; amended by Ord. 114-76, App. 4/2/76; Ord. 386-95, App. 12/14/95)

SEC. 1.112. ELECTRONIC CAMPAIGN DISCLOSURE.

(1) Filing Electronic Copies of Campaign Statements Required by State Law. Whenever any committee that meets the requirements of Subsection (b) of this Section is required

by the California Political Reform Act, (California Government Code Section 81000 et seq.) to file a campaign disclosure statement or report with the Ethics Commission, the committee shall file at the same time a copy of the statement or report in an electronic format with the Ethics Commission, provided the Ethics Commission has prescribed the format at least 60 days before the statement or report is due to be filed.

(2) Filing Electronic Copies of Campaign Statements Required by Local Law.

Whenever any committee is required to file a campaign disclosure statement or report with the Ethics Commission under this Chapter, the committee shall file the statement or report in an electronic format, provided the Ethics Commission has prescribed the format at least 60 days before the statement or report is due to be filed.

(3) Continuous Filing of Electronic Statements. Once a committee is subject to the electronic filing requirements imposed by this Section, the committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the committee terminates pursuant to this Chapter and the California Political Reform Act, (California Government Code Section 81000 et seq.).

(4) Disclosure of Expenditure Dates. All electronic statements filed under this Section shall include the date any expenditure required to be reported on the statement was incurred, provided that the Ethics Commission's forms accommodate the reporting of such dates.

(b) COMMITTEES SUBJECT TO ELECTRONIC FILING REQUIREMENTS.

(1) A committee must file electronic copies of statements and reports if it receives contributions or makes expenditures that total \$5,000 or more in a calendar year and is:

(A) a committee controlled by a candidate for City elective office;

(B) a committee primarily formed to support or oppose a local measure or a candidate for City elective office; or

(C) a general purpose recipient, independent expenditure or major donor committee that qualifies, under state law, as a city or county general purpose committee in the City and County of San Francisco.

(2) The Ethics Commission may require additional committees not listed in this Section to file electronically through regulations adopted at least 60 days before the statement or report is due to be filed.

(Added by Proposition O, 11/7/2000; amended by Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009) (Former Sec. 1.112 was added by Ord. 114-76, App. 4/2/76; amended by Ord. 386-95, App. 12/14/95; renumbered by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered by Proposition O, 11/7/2000)

SEC. 1.113. DISCLOSURE REQUIREMENTS DURING SIGNATURE GATHERING PERIODS FOR INITIATIVES, REFERENDA AND RECALLS.

(a) In addition to the requirements of this Chapter and state law, any committee that is raising or spending funds to support or oppose a measure during the circulation of the measure shall file supplemental campaign statements with the Ethics Commission under this Section. Such committees shall file supplemental campaign statements on the 5th and 20th day of every month in which a measure is circulating in the City and County for signatures, and on the 5th day of the month following the end of the circulation period if

necessary to disclose contributions received or expenditures made during the signature-gathering period. Each such statement shall disclose contributions received and expenditures made between the end of the reporting period for the last campaign statement filed by the committee and the period ending five calendar days prior to the date of filing.

(Added by Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.114. CONTRIBUTION LIMITS.

(a) LIMITS ON CONTRIBUTIONS TO CANDIDATES.

(1) Per Candidate Limit. No person other than a candidate shall make, and no campaign treasurer for a candidate committee shall solicit or accept, any contribution which will cause the total amount contributed by such person to such candidate committee in an election to exceed \$500.

(2) Overall Limit. No person shall make any contribution which will cause the total amount contributed by such person to all candidate committees in an election to exceed \$500 multiplied by the number of City elective offices to be voted on at that election.

(b) LIMITS ON CONTRIBUTIONS FROM CORPORATIONS. No corporation organized pursuant to the laws of the State of California, the United States, or any other state, territory, or foreign country, whether for profit or not, shall make a contribution to a candidate committee, provided that nothing in this subsection shall prohibit such a corporation from establishing, administering, and soliciting contributions to a separate segregated fund to be utilized for political purposes by the corporation, provided that the separate segregated fund complies with the requirements of federal law including sections 432(e) and 441b of Title 2 of the United States Code and any subsequent amendments to those sections.

(c) LIMITS ON CONTRIBUTIONS TO COMMITTEES.

(1) Per Committee Limit. No person shall make, and no committee treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person to the committee to exceed \$500 per calendar year.

(2) Overall Limit. No person shall make, and no committee treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person to all committees to exceed \$3,000 per calendar year.

(3) Definitions. For purposes of this Subsection, "committee" shall mean any committee making expenditures to support or oppose a candidate, but shall not include candidate committees.

(d) AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.

(1) General Rule. For purposes of the contribution limits imposed by this Section and Section 1.120 the contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(2) Multiple Entity Contributions Controlled by the Same Persons. If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(3) Majority-Owned Entities. Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decisions to make contributions.

(4) Definition. For purposes of this Section, the term "entity" means any person other than an individual and "majority-owned" means a direct or indirect ownership of more than 50 percent.

(e) CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of contributions received from a contributor is \$100 or more, the committee shall not deposit any contribution that causes the total amount contributed by a person to equal or exceed \$100 unless the committee has the following information: the contributor's full name; the contributor's street address; the contributor's occupation; and the name of the contributor's employer or, if the contributor is self-employed, the name of the contributor's business. A committee will be deemed not to have had the required contributor information at the time the contribution was deposited if the required contributor information is not reported on the first campaign statement on which the contribution is required to be reported.

(f) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other penalty, each committee that receives a contribution which exceeds the limits imposed by this Section or which does not comply with the requirements of this Section shall pay promptly the amount received or deposited in excess of the amount permitted by this Section to the City and County of San Francisco and deliver the payment to the Ethics Commission for deposit in the General Fund of the City and County; provided that the Ethics Commission may provide for the waiver or reduction of the forfeiture.

(g) RECEIPT OF CONTRIBUTIONS. A contribution to a candidate committee or committee making expenditures to support or oppose a candidate shall not be considered received if it is not cashed, negotiated, or deposited and in addition it is returned to the donor before the closing date of the campaign statement on which the contribution would otherwise be reported, except that a contribution to a candidate committee or committee making expenditures to support or oppose a candidate made before an election at which the candidate is to be voted on but after the closing date of the last campaign statement required to be filed before the election shall not be considered to be deemed received if it is not cashed, negotiated or deposited and is returned to the contributor within 48 hours of receipt. For all committees not addressed by this section, the determination of when contributions are considered to be received shall be made in accordance with the California Political Reform Act, California Government Code Section 81000, et seq.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 126-06, App. 6/23/06; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.508; amended by Ord. 79-83, App. 2/18/83; Proposition N, 11/7/95)

SEC. 1.115. COORDINATION OF EXPENDITURES.

(a) GENERAL.

An expenditure is not considered independent and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit the expenditure is made, if the expenditure funds a communication that expressly advocates the nomination, election or defeat of a clearly identified candidate and is made under the following circumstance:

- (1) the expenditure is made at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, the candidate on whose behalf, or for whose benefit, the expenditure is made; or
- (2) the communication funded by the expenditure is created, produced or disseminated:
 - (A) after the candidate has made or participated in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication; or
 - (B) after discussion between the creator, producer or distributor of a communication, or the person paying for that communication, and the candidate or committee regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that communication, the result of which is agreement on any of these topics.

(b) REBUTTABLE PRESUMPTION OF COORDINATION.

In addition to subsection (a) of this section, there shall be a presumption that an expenditure funding a communication that expressly advocates the nomination, election or defeat of a clearly identified candidate is not independent of the candidate on whose behalf or for whose benefit the expenditure is made, when:

- (1) it is based on information about the candidate or committee's campaign needs or plans provided to the spender by the candidate;
- (2) it is made by or through any agent of the candidate in the course of the agent's involvement in the current campaign;
- (3) the spender retains the services of a person, including a campaign consultant, who provides, or has provided, the candidate with professional services related to campaign or fundraising strategy for that same election;
- (4) the communication replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate; or
- (5) in the same election that the expenditure is made, the spender or spender's agent is serving or served in an executive or policymaking role for the candidate's campaign or participated in strategy or policy making discussions with the candidate's campaign relating to the candidate's pursuit of election to office and the candidate is pursuing the same office as a candidate whose nomination or election the expenditure is intended to influence.

(c) EXCEPTIONS.

Notwithstanding the foregoing, an expenditure shall not be considered a contribution to a candidate merely because:

- (1) the spender interviews a candidate on issues affecting the spender;
- (2) the spender has obtained a photograph, biography, position paper, press release, or similar material from the candidate;
- (3) the spender has previously made a contribution to the candidate;

- (4) the spender makes an expenditure in response to a general, non-specific request for support by a candidate, provided that there is no discussion with the candidate prior to the expenditure relating to details of the expenditures;
 - (5) the spender has invited the candidate or committee to make an appearance before the spender's members, employees, shareholders, or the families thereof, provided that there is no discussion with the candidate prior to the expenditure relating to details of the expenditure;
 - (6) the spender informs a candidate that the spender has made an expenditure provided that there is no other exchange of information not otherwise available to the public, relating to the details of the expenditure; or
 - (7) the expenditure is made at the request or suggestion of the candidate for the benefit of another candidate or committee.
- (d) DEFINITION.

For purposes of this section, the terms "candidate" includes an agent of the candidate when the agent is acting within the course and scope of the agency.

(Added by Ord. 228-06, File No. 060501, App. 9/14/2006)

SEC. 1.116. LIMITS ON LOANS TO CANDIDATES.

- (a) A candidate's loan of personal funds to the candidate's campaign may not exceed at any time more than
 - (1) \$15,000 for a candidate for the Board of Supervisors, Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District,
 - (2) \$120,000 for a candidate for Mayor, or
 - (3) \$35,000 for a candidate for Assessor or Public Defender, City Attorney, Treasurer, District Attorney or Sheriff.
- (b) A candidate may not charge interest on any loan the candidate has made to the candidate's campaign.
- (c) In addition to any other penalty, loans made by a candidate to the candidate's campaign in excess of the amounts in subsection (a) shall be deemed a contribution to the campaign and may not be repaid to the candidate.
- (d) Whenever the Ethics Commission adjusts the voluntary expenditure ceilings to reflect changes in the California Consumer Price Index, as authorized under Section 1.130, the Commission is authorized to adjust the loan amounts in this Section to reflect changes in the Consumer Price Index.

(Added by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 228-06, File No. 060501, App. 9/14/2006. Former Sec. 1.116 was added by Ord. 365-94, App. 10/28/94; renumbered by Ord. 71-00, File No. 000358, App. 4/28/2000; repealed by Proposition O, 11/7/2000)

SEC. 1.118. PAYMENT OF ACCRUED EXPENSES.

- (a) A candidate committee that accepts goods or services on credit shall pay for such accrued expenses in full no later than 180 calendar days after receipt of a bill or invoice and in no event later than 180 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably based on a good faith dispute. For

purposes of this Subsection, a good faith dispute shall be rebuttably presumed if the candidate committee produces the following:

- (1) Evidence that the candidate committee protested the payment of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and
 - (2) Evidence that the protest was based on the time of delivery, quality or quantity of goods delivered or services rendered or the price of the goods delivered or the services provided.
- (b) The provisions of Subsection (a) do not apply to debt owed to a financial institution for an outstanding credit card balance.
- (c) Each and every calendar day any accrued expense remains partially or wholly unpaid after the time periods set forth in Subsection (a) constitutes a separate violation.
- (Added by Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.120. CONTRIBUTION LIMITS--POST-ELECTION LEGAL PROCEEDINGS.

All provisions of this Chapter, unless specified otherwise herein, shall be applicable in any post-election recounts, election contests or other proceedings held pursuant to law. In addition, the following provisions shall be applicable in any such post-election legal proceedings:

- (a) No person other than a candidate shall make, and no candidate shall solicit or accept, any contribution which will cause the total amount contributed by such person in post-election legal proceedings to any candidate to exceed, in addition to the contribution limit contained in Sections 1.114, \$100.
 - (b) Notwithstanding any other provision of this Chapter to the contrary, for the purposes of conducting post-election recounts, election contests or other proceedings held pursuant to law, the delivery of in-kind legal services by lawyers in support of or in opposition to candidates, including in-kind contributions to committees supporting or opposing candidates, shall not be subject to any contribution limitations set forth in this Chapter.
 - (c) If any person violates this Section, each campaign treasurer who received part or all of the contribution or contributions which constitute the violation shall pay promptly the amount received from such person in excess of the amount permitted by this Section to the City and County Treasurer for deposit in the General Fund of the City and County.
- (Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 3-06, File No. 051439, App. 1/20/2006) (Derivation: Former Administrative Code Section 16.509-1; added by Ord. 81-83, App. 2/25/83)

SEC. 1.122. SOLICITATION OR ACCEPTANCE OF CAMPAIGN CONTRIBUTIONS-- LIMITATIONS.

- (a) **DECLARATION OF INTENT REQUIRED.** No candidate or candidate committee, shall solicit or accept, or cause to be solicited or accepted, any contribution unless and until the candidate has filed a declaration of intention to become a candidate for a specific City elective office with the Department of Elections on a form prescribed by the Director of Elections.

No person shall file a declaration of intention to become a candidate for more than one City elective office.

(b) USE OF CAMPAIGN FUNDS.

(1) GENERAL. Except as otherwise provided in this Chapter, funds in a candidate committee's campaign account may be used only on behalf of the candidacy for the office specified in the candidate's declaration of intention filed under Subsection (a) or for expenses associated with holding that office, provided that such expenditures are reasonably related to a legislative, governmental, or political purpose. Contributions solicited or accepted under this Section for one candidate shall not be expended for the candidacy of any other candidate for local, state or federal office, in support of or opposition to any measure or in support of or opposition to any state ballot proposition, or for donations to a charitable organization. Nothing in this section shall prohibit a candidate committee for a candidate in a ranked choice election from expending funds to support the ranking of another candidate if the primary purpose of the expenditure is to further the candidate's own campaign.

(2) WITHDRAWAL FROM CANDIDACY. If a candidate has withdrawn his or her candidacy, campaign funds held by that candidate's committee's Campaign Contribution Trust Account shall be:

- (A) returned on a "last in, first out" basis to those persons who have made said contributions;
- (B) donated to the City and County of San Francisco; or
- (C) donated to a charitable organization;.
- (D) used to pay outstanding campaign debts or accrued expenses;
- (E) used to pay expenses associated with terminating the committee, such as bookkeeping, legal fees, preparation of campaign statements, and audits; or
- (F) used for other permissible purposes established by the Ethics Commission by regulation.

(3) SURPLUS FUNDS. Surplus funds held by a candidate or committee shall be:

- (A) returned on a "last in, first out" basis to those persons who have made said contributions;
- (B) donated to a charitable organization; or
- (C) donated to the City and County of San Francisco;.
- (D) used to pay outstanding campaign debts or accrued expenses;
- (E) used to pay expenses associated with terminating the committee, such as bookkeeping, legal fees, preparation of campaign statements, and audits; or
- (F) used for other permissible purposes established by the Ethics Commission by regulation.

(c) TRANSFER OF FUNDS. Subject to the restrictions set forth in Subsection (b), at any time, funds held in a candidate committee's Campaign Contribution Trust Account may be transferred to any legally constituted committee established by the candidate under the California Political Reform Act, California Government Code section 81000 et seq. Contributions transferred under this subsection shall be attributed to specific contributors using a "first in, first out" or "last in, first out" accounting method.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009) (Derivation: Former

Administrative Code Section 16.510; amended by Ord. 80-83, App. 2/18/83; Ord. 224-96, App. 6/17/96)

SEC. 1.124.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; repealed by Ord. 141-03, File No. 030034, App. 6/27/2003) (Derivation: Former Administrative Code Section 16.510-1; added by Proposition N, 11/7/95)

SEC. 1.126. CONTRIBUTION LIMITS--CONTRACTORS DOING BUSINESS WITH THE CITY, THE UNIFIED SCHOOL DISTRICT AND THE COMMUNITY COLLEGE DISTRICT.

(a) DEFINITIONS.

For purposes of this section, the following words and phrases shall mean:

(1) "Person who contracts with" includes any party or prospective party to a contract, as well any member of that party's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 20 percent in the party, any subcontractor listed in a bid or contract, and any committee, as defined by this Chapter that is sponsored or controlled by the party, provided that the provisions of Section 1.114 of this Chapter governing aggregation of affiliated entity contributions shall apply only to the party or prospective party to the contract.

(2) "Contract" means any agreement or contract, including any amendment or modification to an agreement or contract, with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District, or the San Francisco Community College District for:

(A) the rendition of personal services,

(B) the furnishing of any material, supplies or equipment,

(C) the sale or lease of any land or building, or

(D) a grant, loan or loan guarantee.

(3) "Board on which an individual serves" means the board to which the officer was elected and any other board on which the elected officer serves.

(b) Prohibition on contribution. No person who contracts with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the San Francisco Community College District,

(1) Shall make any contribution to:

(A) An individual holding a City elective office if the contract must be approved by such individual, the board on which that individual serves or a state agency on whose board on which an appointee of that individual serves;

(B) A candidate for the office held by such individual; or

(C) A committee controlled by such individual or candidate

(2) Whenever the agreement or contract has a total anticipated or actual value of \$50,000.00 or more, or a combination or series of such agreements or contracts approved by that same individual or board have a value of \$50,000.00 or more in a fiscal year of the City and County

(3) At any time from the commencement of negotiations for such contract until.

(A) The termination of negotiations for such contract; or

(B) Six months have elapsed from the date the contract is approved.

(c) Prohibition on receipt of contribution. No individual holding City elective office or committee controlled by such an individual shall solicit or accept any contribution prohibited by subsection (b) at any time from the formal submission of the contract to the individual until the termination of negotiations for the contract or six months have elapsed from the date the contract is approved. For the purpose of this subsection, a contract is formally submitted to the Board of Supervisors at the time of the introduction of a resolution to approve the contract.

(d) Forfeiture of contribution. In addition to any other penalty, each committee that receives a contribution prohibited by subsection (c) shall pay promptly the amount received or deposited to the City and County of San Francisco and deliver the payment to the Ethics Commission for deposit in the General Fund of the City and County; provided that the Commission may provide for the waiver or reduction of the forfeiture.

(e) Notification.

(1) Prospective Parties to Contracts. Any prospective party to a contract with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the San Francisco Community College District shall inform each person described in subsection (a)(1) of the prohibition in subsection (b) by the commencement of negotiations for such contract.

(2) Individuals Who Hold City Elective Office. Every individual who holds a City elective office shall, within five business days of the approval of a contract by the officer, a board on which the officer sits or a board of a state agency on which an appointee of the officer sits, notify the Ethics Commission, on a form adopted by the Commission, of each contract approved by the individual, the board on which the individual serves or the board of a state agency on which an appointee of the officer sits. An individual who holds a City elective office need not file the form required by this subsection if the clerk or secretary of a board on which the individual serves or a board of a state agency on which an appointee of the officer serves has filed the form on behalf of the board.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 228-06, File No. 060501, App. 9/14/2006; amended by Proposition H, June 3, 2008) (Derivation: Former Administrative Code Section 16.510-2; added by Proposition N, 11/7/95)

SEC. 1.128. ACCEPTANCE OR REJECTION OF VOLUNTARY EXPENDITURE CEILINGS.

(a) Candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District may accept the applicable voluntary expenditure ceiling. Candidates for the Board of Supervisors or Mayor may not accept a voluntary expenditure ceiling.

(b) To accept the applicable voluntary expenditure ceiling, a candidate must file a statement with the Ethics Commission accepting the applicable voluntary expenditure ceiling. The candidate shall file this statement no later than the deadline for filing nomination papers with the Department of Elections. A candidate may not withdraw the statement accepting the voluntary expenditure ceiling after filing the statement. A

candidate may not file the statement accepting the applicable voluntary expenditure ceiling if the Ethics Commission has lifted the voluntary expenditure ceiling under Section 1.134 of this Chapter.

(c) The Ethics Commission shall maintain, on its website, a list of the candidates who have accepted the voluntary expenditure ceiling. If the Ethics Commission has lifted a voluntary expenditure ceiling for a particular race under Section 1.134 of this Chapter, the Ethics Commission shall instead maintain a list of the candidates who have accepted, but are no longer subject to the voluntary expenditure ceiling in that race.

(d) A candidate who has accepted the applicable voluntary expenditure ceiling and makes qualified campaign expenditures in excess of the voluntary expenditure ceiling, at a time when the Ethics Commission has not lifted the applicable voluntary expenditure ceiling, is subject to the penalties in Section 1.170 for violation of this Chapter.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 293-04, File No. 041396, App. 12/24/2004; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.510-3; added by Proposition N, 11/7/95)

SEC. 1.130. AMOUNT OF VOLUNTARY EXPENDITURE CEILINGS.

(a) Any candidate for Assessor, Public Defender, City Attorney, District Attorney, Treasurer, or Sheriff who agrees to accept voluntary expenditure ceilings shall not make total qualified campaign expenditures exceeding \$243,000, unless the Ethics Commission has lifted the voluntary expenditure ceiling pursuant to Section 1.134 of this Chapter.

(b) Any candidate for the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District who agrees to accept voluntary expenditure ceilings shall not make total qualified campaign expenditures exceeding \$104,000, unless the Ethics Commission has lifted the voluntary expenditure ceiling pursuant to Section 1.134 of this Chapter.

(c) The Ethics Commission is authorized to adjust annually by regulation the voluntary expenditure ceilings imposed by this Section to reflect the change in the California Consumer Price Index for that year, provided that such adjustments shall be rounded off to the nearest \$1,000.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.510-4; added by Proposition N, 11/7/95)

SEC. 1.132.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; repealed by Ord. 228-06, File No. 060501, App. 9/14/2006) (Derivation: Former Administrative Code Section 16.510-5; added by Proposition N, 11/7/95)

SEC. 1.134. LIFTING OF VOLUNTARY EXPENDITURE CEILINGS; SUPPLEMENTAL REPORTING IN ELECTIONS FOR ASSESSOR, PUBLIC

DEFENDER, CITY ATTORNEY, DISTRICT ATTORNEY, TREASURER, SHERIFF, THE BOARD OF EDUCATION OF THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT, OR THE GOVERNING BOARD OF THE SAN FRANCISCO COMMUNITY COLLEGE DISTRICT.

This Section shall apply only if at least one candidate for the City elective office has accepted the applicable voluntary expenditure ceiling, and the Ethics Commission has not lifted that voluntary expenditure ceiling. This Section applies only to candidates for Assessor, Public Defender, City Attorney, District Attorney, Treasurer, Sheriff, the Board of Education of the San Francisco Unified School District, or the Governing Board of the San Francisco Community College District.

(a) The voluntary expenditure ceiling shall no longer be binding on a candidate:

(1) if a candidate seeking election to the same City elective office, who has declined to accept the voluntary expenditure ceilings, receives contributions or makes qualified campaign expenditures in excess of 100 percent of the applicable voluntary expenditure ceiling,

(2) if a person or persons make expenditures or payments, or incur expenses for the purpose of making independent expenditures, electioneering communications or member communications that total more than 100 percent of the applicable voluntary expenditure ceiling, and those expenditures or communications clearly identify a candidate seeking election to the same City elective office, or

(3) if a candidate seeking election to the same City elective office, who has accepted the voluntary expenditure ceiling, makes qualified campaign expenditures in excess of 100 percent of the voluntary expenditure ceiling.

(b) Any candidate committee that receives contributions, makes qualified campaign expenditures, incurs expenses or has funds in its Campaign Contribution Trust Account that total more than 100 percent of the applicable voluntary expenditure ceiling shall, within 24 hours of exceeding 100 percent of the applicable voluntary expenditure ceiling, file a statement with the Ethics Commission, on forms to be provided by the Ethics Commission, stating that fact and any additional information required by the Ethics Commission.

(c) Any person other than a candidate committee who makes expenditures or payments, or incurs expenses for the purpose of distributing independent expenditures, electioneering communications or member communications that clearly identify any candidate in an amount that in the aggregate equals or exceeds \$5,000 per candidate shall, within 24 hours of reaching or exceeding this threshold, file a statement with the Ethics Commission. The statement shall include a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any additional information required by the Ethics Commission.

Thereafter, until the Ethics Commission lifts the applicable voluntary expenditure ceiling, any such person shall file a supplemental statement with the Ethics Commission each time the person makes expenditures for the purpose of distributing independent expenditures, electioneering communications or member communications that clearly identify any candidate in an amount that in the aggregate equals or exceeds an additional \$5,000 per candidate. The supplemental statements shall be filed within 24 hours of reaching or exceeding this threshold, and shall include a legible copy of the

communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any additional information required by the Ethics Commission.

(d) Within one business day after receiving a notice indicating that the thresholds in subsection (a) have been met, the Ethics Commission shall inform every candidate in the same race that the expenditure ceiling has been lifted.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 71-05, File No. 041489, App. 4/15/2005; Ord. 75-05, File No. 050624, App. 4/27/2005; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009)

(Derivation: Former Administrative Code Section 16.510-6; added by Proposition N, 11/7/95)

SEC. 1.134.5.

(Added by Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 74-08, File No. 080278, App. 4/30/2008; amended by Ord. 243-08, File No. 091061, App. 10/30/08; repealed by Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.135. SUPPLEMENTAL PRE-ELECTION STATEMENTS.

(a) Supplemental Preelection Statements. In addition to the campaign disclosure requirements imposed by the California Political Reform Act and other provisions of this Chapter, all San Francisco general purpose committees shall file preelection statements before any election held in the City and County of San Francisco at which a candidate for City elective office or City measure is on the ballot, if the committee makes contributions or expenditures totaling \$500 or more during the period covered by the preelection statement.

(b) Time for Filing Supplemental Preelection Statements. In even-numbered years, preelection statements required by this Section shall be filed pursuant to the preelection statement filing schedule established by the Fair Political Practices Commission for county general purpose recipient committees. In odd-numbered years, the filing schedule is as follows:

(1) For the period ending 45 days before the election, the statement shall be filed no later than 40 days before the election;

(2) For the period ending 17 days before the election, the statement shall be filed no later than 12 days before the election.

(c) The Ethics Commission may require that these statements be filed electronically.

(Added by Ord. 141-03, File No. 030034, App. 6/27/2003; amended by Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.136. PUBLIC FINANCING OF CANDIDATES FOR THE BOARD OF SUPERVISORS OR MAYOR.

Candidates for the Board of Supervisors or Mayor whom the Ethics Commission certifies as eligible to receive public financing of their election campaigns, and who comply with the applicable conditions and restrictions specified in Section 1.140 of this Chapter, may

receive public funds as provided in this Chapter to defray the costs of their election campaigns.

(Added by Proposition O, 11/7/2000; amended by Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.138. ELECTION CAMPAIGN FUND; APPROPRIATION OF FUNDS.

(a) ESTABLISHMENT OF ELECTION CAMPAIGN FUND. There is hereby established a special fund of the City and County of San Francisco called the Election Campaign Fund. All money deposited in the Fund is hereby appropriated for use as specified in this Chapter and the implementing regulations.

(b) APPROPRIATION TO ELECTION CAMPAIGN FUND.

Except as provided in subsections (b)(3) and (b)(4), each fiscal year the City and County of San Francisco shall appropriate \$2.75 per resident of the City and County of San Francisco to the Election Campaign Fund to provide funding for election campaigns as authorized by this Chapter for all candidates for Mayor or the Board of Supervisors who may be eligible to receive such funds. At the request of the Ethics Commission, the Controller shall estimate the number of residents of the City and County of San Francisco for purposes of this subsection.

(1) Any funds in the Election Campaign Fund not used in one election shall be carried over for use in the following election, provided that at no time shall the total amount in the Election Campaign Fund exceed \$13.5 million. Any funds in the Election Campaign Fund in excess of \$13.5 million shall be returned to the General Fund.

(2) Funds necessary for the Ethics Commission to administer the public financing program for candidates for Mayor or the Board of Supervisors authorized under section 1.136 of this Chapter shall be taken from the Election Campaign Fund. The Commission's administrative expenses for such public financing program for any election shall not exceed 15% of the total amount of funds in the Election Campaign Fund for that election.

(3) If the Office of Mayor becomes vacant and an election is held to fill the vacancy for the remainder of the term, the City and County of San Francisco shall appropriate additional funds to the Election Campaign Fund in an amount that ensures that at least \$8.00 per resident is available in the Election Campaign Fund for that election and the next regularly scheduled Mayoral election.

(4) If an office of a member of the Board of Supervisors becomes vacant and an election is held to fill the vacancy for the remainder of the term, the City and County of San Francisco shall appropriate an additional \$0.25 per resident to the Election Campaign Fund for that election. These additional funds shall not be subject to the limit in subsection (b)(1) of this section. Any funds appropriated pursuant to this subsection that are not used for the election to fill the vacancy shall be returned to the General Fund.

(Added by Proposition O, 11/7/2000; amended by Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007)

SEC. 1.138.5.

(Added by Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; repealed by Ord. 268-07, File No. 071993, Approved 11/26/2007.)

SEC. 1.140. ELIGIBILITY TO RECEIVE PUBLIC FINANCING.

(a) **REQUIREMENTS FOR ALL CANDIDATES.** To be eligible to receive public financing of campaign expenses under this Chapter, a candidate must:

(1) Have filed a statement indicating that he or she intends to participate in the public financing program under Section 1.142 of this Chapter.

(2) Agree to the following conditions:

(A) The candidate bears the burden of providing that each contribution the candidate relies upon to establish eligibility is a qualifying contribution;

(B) The candidate bears the burden of proving that expenditures made with public funds provided under this Chapter comply with Section 1.148 of this Chapter;

(C) The candidate will not make any payments to a contractor or vendor in return for the contractor or vendor making a campaign contribution to the candidate or make more than a total of 50 payments, other than the return of a contribution, to contractors or vendor that have made contributions to the candidate;

(D) Notwithstanding Sections 1.114 and 1.116, the candidate shall not loan or donate, in total, more than \$15,000 of his or her own money to the campaign;

(E) The candidate shall not accept any loans to his or her campaign with the exception of a candidate's loan to his or her own campaign as permitted by this Section; and

(F) The candidate shall agree to participate in at least three debates with the candidate's opponents.

(3) Have paid any outstanding late fines or penalties, owed to the City by the candidate or any of the candidate's previous campaign committees, which were imposed for violations of this Code or the campaign finance provisions of the California Political Reform Act (Government Code Sections 84100– 85704), provided that the Ethics Commission had notified the candidate of such fines or penalties by the time of certification.

(4) Have filed any outstanding forms, owed to the City by the candidate or any of the candidate's previous campaign committees, which were required to be filed pursuant to this Code or the campaign finance provisions of the Political Reform Act (Government Code Sections 84100– 85704), provided that the Ethics Commission had notified the candidate of such outstanding forms by the time of certification.

(5) Have no finding by a court or by the Ethics Commission after a hearing on the merits, within the prior five years, that the candidate knowingly, willfully, or intentionally violated any Section of this Code or the campaign finance provisions of this California Political Reform Act (Government Code Sections 84100– 85704). For purposes of this Section, a plea of nolo contendere constitutes a finding by a court of a willful violation.

(b) **ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR THE BOARD OF SUPERVISORS.** To be eligible to receive public financing of campaign expenses under this Chapter, a candidate for the Board of Supervisors must:

(1) Be seeking election to the Board of Supervisors and be eligible to hold the office sought;

(2) Have a candidate committee that has received at least \$5,000 in qualifying contributions from at least 75 contributors before the 70th day before the election;

(3) Be opposed by another candidate who has either established eligibility to receive public financing, or whose candidate committee has received contributions or made expenditures which in the aggregate equal or exceed \$5,000; and

(4) Agree that his or her candidate committee will not make qualified campaign expenditures that total more than the candidate's Individual Expenditure Ceiling of \$143,000, or as adjusted under Section 1.143 of this Chapter.

(c) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR MAYOR. To be eligible to receive public financing of campaign expenses under this Chapter, a candidate for Mayor must:

(1) Be seeking election to the office of Mayor and be eligible to hold the office sought;

(2) Have a candidate committee that has received at least \$25,000 in qualifying contributions from at least 250 contributors by the 70th day before the election.

(3) Be opposed by another candidate who has either established eligibility to receive public financing, or whose candidate committee has received contributions or made expenditures that in the aggregate equal or exceed \$50,000; and

(4) Agree that his or her candidate committee will not make qualified campaign expenditures that total more than the candidate's Individual Expenditure Ceiling of \$1,475,000, or as adjusted under Section 1.143 of this Chapter.

(d) ADJUSTMENT OF EXPENDITURE LIMITS AND THRESHOLDS. The Ethics Commission is authorized to adjust:

(1) The figures in Subsections (b)(4) and (c)(4) to reflect changes in the California Consumer Price Index, provided that such adjustments shall be rounded off to the nearest \$1,000 for candidates for the Board of Supervisors and the nearest \$5,000 for candidates for Mayor;

(2) The figure in Subsection (a)(2)(D) of this Section to reflect changes in the California Consumer Price Index, provided that such adjustments shall be rounded off to the nearest \$1,000;

(3) The figures in Subsections (b)(2) and (b)(3) of this Section to reflect changes in the California Consumer Price Index, provided that such adjustments shall be rounded off to the nearest \$500;

(4) The figures in Subsections (c)(2) and (c)(3) of this Section to reflect changes in the California Consumer Price Index, provided that such adjustments shall be rounded off to the nearest \$5,000; and

(5) The maximum amount of a contribution that constitutes a qualifying contribution pursuant to Section 1.104 to reflect changes in the California Consumer Price Index, provided that such adjustments shall be rounded off to the nearest \$10.

(Added by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 236-05, File No. 051033, App. 10/7/2005; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.140.5.

(Added by Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007)

SEC. 1.142. PROCESS FOR ESTABLISHING ELIGIBILITY; CERTIFICATION BY THE ETHICS COMMISSION.

(a) **STATEMENT OF PARTICIPATION OR NON-PARTICIPATION.** Each candidate for the Board of Supervisors or Mayor must sign and file a Statement of Participation or Non-Participation in the public financing program. The statement must be filed by the candidate with the Ethics Commission no later than the deadline for filing nomination papers. On the statement, each candidate shall indicate whether he or she intends to participate in the public financing program. A statement of participation or non-participation may not be amended after the deadline for filing nomination papers.

(b) **DECLARATION BY CANDIDATE.** To become eligible to receive public financing of campaign expenses under this Chapter, a candidate shall declare, under penalty of perjury, that the candidate satisfies the requirements specified in Section 1.140.

Candidates shall be permitted to submit the declaration and any supporting material required by the Ethics Commission to the Ethics Commission no earlier than nine months before the date of the election, but no later than the 70th day before the election. Once the declaration and supporting material are submitted, they may not be amended. The declaration and supporting material may be withdrawn and refiled, provided that the refile is made no later than the 70th day before the election.

If any deadline imposed by this Subsection falls on a Saturday, Sunday, or legal holiday, the deadline shall be the next business day.

(c) **DETERMINATION OF ELIGIBILITY.** The Executive Director of the Ethics Commission shall review the candidate's declaration and supporting material to determine whether the candidate is eligible to receive public funds under this Chapter. The Executive Director may audit the candidate's records, interview contributors and take whatever steps the Executive Director deems necessary to determine eligibility. At the request of the Executive Director, the Controller shall assist in this review process.

(d) **DETERMINATION OF OPPOSITION.** To determine whether a candidate for the Board of Supervisors is opposed as required under Section 1.140(b)(3) of this Chapter or a candidate for Mayor is opposed as required under Section 1.140(c)(3) of this Chapter, the Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter, and may review any other material.

(e) **CERTIFICATION.** If the Executive Director determines that a candidate for Mayor or the Board of Supervisors has satisfied the requirements of Section 1.140, the Executive Director shall notify the candidate and certify to the Controller that the candidate is eligible to receive public financing under this Chapter. The Executive Director shall not certify that a candidate is eligible to receive public financing if the candidate's declaration or supporting material is incomplete or otherwise inadequate to establish eligibility. The Executive Director shall determine whether to certify a candidate no later than 30 days after the date the candidate submits his or her declaration and supporting material, provided that the Executive Director shall make all determinations regarding whether to certify a candidate no later than the 55th day before the election.

(f) **RESUBMISSION.** If the Executive Director declines to certify that a candidate is eligible to receive public financing under this Chapter, the Executive Director shall notify the candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five business days of the date of notification, resubmit the declaration and

supporting material. If the candidate does not timely resubmit, the Executive Director's determination is final.

If, after viewing resubmitted material, the Executive Director declines to certify that a candidate is eligible to receive public financing under this Chapter, the Executive Director shall notify the candidate of this fact. Additional resubmissions may be permitted in the Executive Director's discretion. If the candidate fails to resubmit in the time specified by the Executive Director, or if no further resubmissions are permitted, the Executive Director's determination is final.

(g) **APPEAL TO THE ETHICS COMMISSION.** If, the Executive Director declines to certify that a candidate is eligible to receive public financing under this Chapter, the candidate may appeal the Executive Director's final determination to the Ethics Commission. The candidate must deliver the written appeal to the Ethics Commission within five days of the date of notification of the Executive Director's determination.

(Added by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.

This Section shall apply only if the Ethics Commission has certified that at least one candidate for Mayor or the Board of Supervisors is eligible to receive public funds under this Chapter.

(a) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate for Mayor to an amount equal to the sum of the Total Opposition Spending against that candidate and the highest level of the Total Supportive Funds of any other candidate for Mayor if such amount is greater than \$1,475,000, provided that the Executive Director may adjust a candidate's Individual Expenditure Ceilings only in increments of \$100,000.

(b) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate for the Board of Supervisors to an amount equal to the sum of the Total Opposition Spending against that candidate and the highest level of the Total Supportive Funds of any other candidate for the same office on the Board of Supervisors if such amount is greater than \$143,000, provided the Executive Director may adjust a candidate's Individual Expenditure Ceiling only in increments of \$10,000.

(c) No later than the second business day after a statement is filed pursuant to Section 1.152 (a)(3) or (b)(3) of this Chapter, the Executive Director shall determine whether the communication supports or opposes one or more candidates.

Factors the Executive Director shall use to determine whether the communication supports or opposes one or more candidates include the following:

- (1) whether the communication clearly identifies one or more candidates;
- (2) the timing of the communication;
- (3) the voters targeted by the communication;
- (4) whether the communication identifies any candidate's position on a public policy issue and urges the reader or viewer to take action, including calling the candidate to support or oppose the candidate's position;
- (5) whether the position of one or more candidates on a public policy issue has been raised as distinguishing these candidates from others in the campaign, either in the communication itself or in other public communications;

(6) whether the communication is part of an ongoing series of substantially similar advocacy communications by the organization on the same issue; and

(7) any other factors the Executive Director deems relevant.

(d) Within one business day of the date that the Executive Director makes a determination under Subsection (c), either the candidate(s) identified in the communication or any candidate seeking the same City elective office as the candidate identified in the communication may object to the Executive Director's determination. The Executive Director shall respond to any objection within one business day of receiving the objection.

(e) Within one business day of the Executive Director's response, either the candidate(s) identified in the communication or any candidate seeking the same City elective office as the candidate identified in the communication may submit to the Executive Director a request that the Ethics Commission review the Executive Director's determination. Within one business day of receiving the request, the Executive Director shall notify each Commissioner of the candidate's request.

If within one business day of the Executive Director's notice, two or more members of the Commission inform the Executive Director that they would like to review the determination, the Executive Director shall schedule a meeting of the Commission on a date that occurs within one week of the Commissioners' requests. If three members of the Commission vote to overrule the Executive Director's determination, the Commission shall make a final determination based on the factors set forth above.

(f) If no candidate objects to the Executive Director's determination, if no candidate requests review by the Commission of the Executive Director's determination, if a request is made and two or more members of the Commission do not request to review the determination, or within one week of two members of the Commission requesting to review the Executive Director's determination, at least three members of the Commission do not vote to overrule the Executive Director's determination, the Executive Director's determination shall become final.

The Executive Director shall determine whether to adjust the Individual Expenditure Ceilings of each candidate for Mayor or the Board of Supervisors pursuant to either Subsection (a) or (b) of this Section within one business day of a final determination. (Added by Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.144. DISBURSEMENT OF PUBLIC FUNDS.

(a) **PAYMENT BY CONTROLLER.** Upon certifying that a candidate is eligible to receive public financing under this Chapter, the Executive Director shall forward the certification to the Controller, and the Controller shall disburse payments to the candidate from the Election Campaign Fund in accordance with the certification and this Section.

(b) **TIME OF PAYMENTS.** The Controller shall not make any payments under this Chapter to any candidate more than nine months before the date of the election. Payments from the Controller shall be disbursed to eligible candidates within two business days of the Controller receiving notification from the Ethics Commission regarding the amount of the disbursement, except that within fifteen calendar days before the election, such payments shall be made within one business day.

(c) **PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR MAYOR.**

(1) Until the Per Candidate Available Disbursement Limit has been determined, candidates for Mayor whom the Ethics Commission has certified as eligible to receive public financing for their election campaigns will have access to up to \$900,000 in funds from the Election Campaign Fund on a first come, first served basis according to the formula set forth in Subsection (c)(3) of this Section.

(2) Once the Per Candidate Available Disbursement Limit has been determined, candidates for Mayor whom the Ethics Commission has certified as eligible to receive public financing for their election campaigns shall have access to funds from the Election Campaign Fund as follows:

(A) If the Executive Director determines that the Per Candidate Available Disbursement Limit is greater than \$900,000, each participating candidate shall have access to the amount of the Per Candidate Available Disbursement Limit, subject to the limitations set forth under Subsection (c)(3)(D) and (c)(3)(E) of this Section.

(B) If the Executive Director determines the Per Candidate Available Disbursement Limit is less than or equal to \$900,000, participating candidates shall have access to funds from the Election Campaign Fund on a first come, first served basis up to a maximum per candidate of \$900,000.

(3) A candidate for Mayor who is certified as eligible to receive public financing under this Chapter shall receive payments for eligible matching contributions according to the following formula:

(A) Upon qualification the candidate shall receive a one-time payment of \$50,000 from the Election Campaign Fund.

(B) After the initial payment under Subsection (c)(3)(A), for the first \$100,000 in matching contributions raised by the candidate, the candidate shall receive four dollars from the Election Campaign Fund for each dollar raised.

(C) After the payments under Subsection (c)(3)(B), for the next \$450,000 in matching contributions raised by the candidate, the candidate shall receive one dollars from the Election Campaign Fund for each dollar raised.

(D) The maximum amount of public funds a mayoral candidate may receive is \$900,000, unless the candidate's Individual Expenditure Ceiling is adjusted according to the rules set forth under Section 1.143.

(E) If the Per Candidate Available Disbursement Limit has been determined to be an amount greater than \$900,000, a candidate who has already received at least \$900,000 in disbursements from the City shall continue to be eligible to receive public funds from the City at the rate of one dollar for each dollar of a matching contribution raised up to the Per Candidate Available Disbursement Limit, provided that no funds shall be disbursed if disbursement of the funds would result in the candidate exceeding his or her Trust Account Limit.

(d) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR THE BOARD OF SUPERVISORS.

(1) Until the Per Candidate Available Disbursement Limit has been determined, candidates for the Board of Supervisors whom the Ethics Commission has certified as eligible to receive public financing for their election campaigns will have access to up to \$89,000 in funds from the Election Campaign Fund on a first come, first served basis according to the formula set forth in Subsection (d)(3) of this Section.

(2) Once the Per Candidate Available Disbursement Limit has been determined, candidates for the Board of Supervisors whom the Ethics Commission has certified as eligible to receive public financing for their election campaigns shall have access to funds from the Election Campaign Fund as follows:

(A) If the Executive Director determines that the Per Candidate Available Disbursement Limit is greater than \$89,000, each participating candidate shall have access to the amount of the Per Candidate Available Disbursement Limit, subject to the limitations set forth under Subsection (d)(3)(D) and (d)(3)(E) of this Section.

(B) If the Executive Director determines the Per Candidate Available Disbursement Limit is less than or equal to \$89,000, participating candidates shall have access to funds from the Election Campaign Fund on a first come, first served basis up to a maximum per candidate of \$89,000.

(3) A candidate for the Board of Supervisors who is certified as eligible to receive public financing under this Chapter shall receive payments for eligible matching contributions according to the following formula:

(A) Upon qualification the candidate shall receive a one-time payment of \$10,000 from the Election Campaign Fund.

(B) After the initial payment under Subsection (d)(3)(A), for the first \$10,000 in matching contributions raised by the candidate, the candidate shall receive four dollars from the Election Campaign Fund for each dollar raised.

(C) After the payments under Subsection (d)(3)(B), for the next \$39,000 in matching contributions raised by the candidate, the candidate shall receive one dollar from the Election Campaign Fund for each dollar raised.

(D) The maximum amount of public funds a candidate for the Board of Supervisors may receive is \$89,000, unless the candidate's Individual Expenditure Ceiling is adjusted according to the rules set forth under Section 1.143.

(E) If the Per Candidate Available Disbursement Limit has been determined to be an amount greater than \$89,000, a candidate who has already received at least \$89,000 in disbursements from the City shall continue to be eligible to receive public funds from the City at the rate of one dollar for each dollar of a matching contribution raised up to the Per Candidate Disbursement Limit, provided that no funds shall be disbursed if disbursement of the funds would result in the candidate exceeding his or her Trust Account Limit.

(e) **PER CANDIDATE AVAILABLE DISBURSEMENT LIMIT.** On the 59th day before the election, the Executive Director shall divide the total amount of non-administrative funds in the Election Campaign Fund by the number of qualified candidates. This number shall be deemed the Per Candidate Available Disbursement Limit. For the purposes of this section, the total amount of non-administrative funds in the Election Campaign Fund shall be the total amount of funds that existed in the Fund nine months before the date of election plus any funds deposited into the Fund between that date and the 59th day before the election minus any funds necessary to cover the administrative costs associated with implementing the public financing program for the next election.

If there are candidates who have submitted a Declaration of Qualification but whose eligibility has not been determined as of the 59th day before the election, the Executive Director shall assume that they are qualified for the purposes of determining the Per

Candidate Available Disbursement Limit. The Per Candidate Available Disbursement Limit shall be revised upward according to the formula above if and when it is determined that the candidate or candidates in question did not qualify to receive public financing.

Immediately upon calculating the Per Candidate Available Disbursement Limit, the Executive Director shall inform the Controller of the initial determination of the Per Candidate Available Disbursement Limit. Thereafter, the Executive Director shall immediately inform the Controller of any subsequent changes in the Per Candidate Available Disbursement Limit due to a determination that a candidate has not qualified to receive public financing.

(f) **SUBMISSION OF CLAIMS FOR PUBLIC FUNDS.** The Ethics Commission shall determine the information needed to submit a claim for payment of public funds. The Executive Director shall certify each request for payment of public funds within four business days of the request, except that within 14 calendar days before the election, when the certification of a request for public funds shall be made within two business days of the request. No candidate may submit a claim for public funds if the candidate has any such claims pending with the Ethics Commission. For candidates for Mayor, any submission of a claim for public funds must include a minimum of \$5,000 of matching contributions; provided that in the 14 calendar days preceding an election, a claim must include a minimum of \$1,000 of matching contributions. For candidates for the Board of Supervisors, any submission of a claim for public funds must include a minimum of \$1,000 of matching contributions; provided that in the 14 calendar days preceding an election, a claim must include a minimum of \$200 of matching contributions. All claims for public funds must be submitted no later than 5:00 p.m. on the 30th day following the date of the election.

(g) **DEPOSIT IN CAMPAIGN CONTRIBUTION TRUST ACCOUNT.** A candidate must deposit all payments received from the Election Campaign Fund in his or her candidate committee's Campaign Contribution Trust Account.

(Added by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 74-08, File No. 080278, App. 4/30/2008; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.144.5.

(Added by Ord. 31-06, File No. 051773, App. 2/23/2006; repealed by Ord. 268-07, File No. 071003, App. 11/26/2007)

SEC. 1.146. TERMINATION OF PAYMENTS.

The Controller shall terminate all payments to a candidate who is otherwise eligible to receive public financing if the candidate or the candidate's committee:

- (a) Withdraws or fails to qualify to have his or her name printed on the ballot for the election for which the candidate applied for public financing;
- (b) Fails to comply with the conditions specified in Section 1.140 of this Chapter; or
- (c) Knowingly or willfully fails to comply with any of the reporting requirements imposed by this Chapter or the Political Reform Act, California Government Code Section 81000, et seq.

(Added by Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 234-09; File No. 090989, App. 11/10/2009)(Former Sec. 1.146 was added by Proposition O, 11/7/2000; repealed by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 268-07, File No. 071003, App. 11/26/2007)

SEC. 1.148. RESTRICTIONS ON USE OF PUBLIC FUNDS; UNEXPENDED PUBLIC FUNDS.

(a) **USE FOR QUALIFIED CAMPAIGN EXPENDITURES ONLY.** Candidates who receive public financing may use the public funds solely to pay for qualified campaign expenditures and to repay loans used to pay for qualified campaign expenditures except that public funds may be used to pay filing fees and costs incurred after the election that do not directly affect the outcome of the election, including but not limited to utility bills, expenses associated with an audit, and expenses related to preparing post-election campaign finance disclosure reports as required by the California Political Reform Act, Government Code Section 81000, et seq., and the provisions of this Chapter. Candidates may not use public funds to pay for expenses incurred in connection with an administrative or judicial proceeding. Candidates may not use public funds to pay administrative, civil or criminal fines, including late filing fines, or to pay for inaugural activities or officeholder expenses. Candidates may not use public funds to pay post-election bonuses to campaign employees or for election victory celebrations or similar post-election campaign events.

(b) **WITHDRAWAL OR FAILURE TO QUALIFY.** Any candidate who receives public financing but who withdraws or fails to qualify to have his or her name printed on the ballot in the election for which the public funds were provided shall repay the Election Campaign Fund the full sum received from the Fund.

(c) UNEXPENDED PUBLIC FUNDS.

Any candidate who receives public financing and whose committee has unexpended public funds shall pay to the City and County of San Francisco and deliver to the Ethics Commission those funds for deposit in the Election Campaign Fund no later than 30 days after the Ethics Commission completes its audit of the candidate's committee. Unexpended funds may be used to pay for expenses associated with an audit such as bank fees, treasurer fees and storage fees until the Ethics Commission completes its audit of the candidate's committee.

(Added by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.150. AUDIT; REPAYMENT.

(a) **AUDIT.** The Ethics Commission shall audit all candidate committees whose candidates have received public financing under this Chapter. Audits of candidate committees conducted under this Subsection shall begin within 60 days after the date the candidate committees' first post-election campaign disclosure report is required to be filed pursuant to Section 1.106 of this Chapter. In his or her discretion, the Executive Director may initiate additional targeted or randomly selected audits of any committee,

irrespective of whether the committee received any public funds. At the request of the Executive Director, the Controller shall assist in conducting these audits.

(b) REPAYMENT.

(1) If the Ethics Commission determines that any portion of the payments made to a candidate from the Election Campaign Fund exceeded the aggregate amount of payments to which the candidate was entitled under this Chapter, the Commission shall notify the Controller and the candidate. In addition to any other penalties, the candidate shall pay to the City and County of San Francisco, and deliver to the Ethics Commission an amount equal to the amount of the excess payments, and if the Commission determines that any amount of any payment made to a candidate from the Election Campaign Fund was used for something other than qualified campaign expenditures, the candidate shall pay to the Ethics Commission an amount equal to the improper expenditure.

(2) Any candidate who receives public funds under this Chapter and exceeds his or her Individual Expenditure Ceiling by ten percent or more shall, in addition to any other penalties, pay to the Ethics Commission an amount equal to the amount of public funds the candidate received under this Chapter.

(3) All payments delivered to the Ethics Commission under this Section shall be deposited in the Election Campaign Fund.

(Added by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF SUPERVISORS AND MAYOR.

(a) ELECTIONS FOR THE BOARD OF SUPERVISORS.

(1) In addition to the campaign disclosure requirements imposed by the California Political Reform Act and other provisions of this Chapter, each candidate committee supporting a candidate for the Board of Supervisors shall file a statement with the Ethics Commission indicating when the committee has received contributions to be deposited into its Campaign Contribution Trust Account, or made expenditures that equal or exceed \$5,000 within 24 hours of reaching or exceeding that amount.

(2) In addition to the supplemental report in Subsection (a)(1) of this Section, each candidate committee supporting a candidate for the Board of Supervisors shall file a statement with the Ethics Commission disclosing when the committee has received contributions to be deposited into its Campaign Contribution Trust Account, or made expenditures that in the aggregate equal or exceed \$100,000. The candidate committee shall file this report within 24 hours of reaching or exceeding the threshold. Thereafter, the candidate committee shall file an additional supplemental report within 24 hours of every time the candidate committee receives additional contributions to be deposited into its Campaign Contribution Trust Account, or makes additional expenditures that in the aggregate equal or exceed \$10,000.

(3) Any person other than a candidate committee who makes expenditures for the purpose of distributing independent expenditures, electioneering communications, or member communications that clearly identify any candidate for the Board of Supervisors, and the amount of those expenditures in the aggregate equals or exceeds \$5,000 per

candidate, shall, within 24 hours of reaching or exceeding this threshold, file a statement with the Ethics Commission. Such statement shall include a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any additional information required by the Ethics Commission. Every person who is required to file a statement with the Ethics Commission pursuant to this Subsection shall indicate on the statement which candidate or candidates for the Board of Supervisors the independent expenditures, electioneering communications, or member communications disclosed on the statement support or oppose, or whether they are neutral. For the purposes of this Subsection, the costs of a communication that supports or opposes more than one candidate or ballot measure shall be apportioned among each candidate and measure in the communication.

Thereafter, any such person shall file a supplemental statement with the Ethics Commission each time the person makes expenditures for the purpose of distributing independent expenditures, electioneering communications or member communications that clearly identify any candidate for the Board of Supervisors in an amount that in the aggregate equals or exceeds an additional \$5,000 per candidate. The supplemental statements shall be filed within 24 hours of reaching or exceeding this threshold, and shall include a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any additional information required by the Ethics Commission.

The Executive Director shall post the information disclosed on statements required by this subsection on the website of the Ethics Commission within two business days of the statement's filing.

(b) ELECTIONS FOR MAYOR.

(1) In addition to the campaign disclosure requirements imposed by the California Political Reform Act and other provisions of this Chapter, each candidate committee supporting a candidate for Mayor shall file a statement with the Ethics Commission indicating when the candidate committee has received contributions to be deposited into its Campaign Contribution Trust Account, or made expenditures that equal or exceed \$50,000 within 24 hours of reaching or exceeding that amount.

(2) In addition to the supplemental report in Subsection (b)(1) of this Section, each candidate committee supporting a candidate for Mayor shall file a statement with the Ethics Commission disclosing when the candidate committee has received contributions to be deposited into its Campaign Contribution Trust Account, or made expenditures that in the aggregate equal or exceed \$1,000,000. The candidate committee shall file this report within 24 hours of reaching or exceeding the threshold. Thereafter, the candidate committee shall file an additional supplemental report within 24 hours of every time the candidate committee receives additional contributions, or makes additional expenditures that in the aggregate equal or exceed \$50,000.

(3) Any person other than a candidate committee who makes expenditures for the purpose of distributing independent expenditures, electioneering communications, or member communications that clearly identify any candidate for Mayor, and the amount of those expenditures in the aggregate equals or exceeds \$5,000 per candidate, shall, within 24 hours of reaching or exceeding this threshold, file a statement with the Ethics

Commission. Such statement shall include a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any additional information required by the Ethics Commission. Every person who is required to file a statement with the Ethics Commission pursuant to this Subsection shall indicate on the statement which candidate or candidates for Mayor the independent expenditures, electioneering communications, or member communications disclosed on the statement support or oppose, or whether they are neutral. For the purposes of this Subsection, the costs of a communication that supports or opposes more than one candidate or ballot measure shall be apportioned among each candidate and measure in the communication.

Thereafter, any such person shall file a supplemental statement with the Ethics Commission each time the person makes expenditures for the purpose of distributing independent expenditures, electioneering communications or member communications that clearly identify any candidate for Mayor in an amount that in the aggregate equals or exceeds an additional \$5,000 per candidate. The supplemental statements shall be filed within 24 hours of reaching or exceeding this threshold, and shall include a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and provide any additional information required by the Ethics Commission.

The Executive Director shall post the information disclosed on statements required by this subsection on the website of the Ethics Commission within two business days of the statement's filing.

(c) The supplemental statements required by Subsections (a)(2), (a)(3), (b)(2) and (b)(3) are not required until the Ethics Commission has certified that at least one candidate is eligible to receive public funds under this Chapter, provided that within two business days of the date that the Ethics Commission provides notice under this subsection that it has certified that a candidate is eligible to receive public funds under this Chapter, any report that previously would have been required under (a)(2), (a)(3), (b)(2) or (b)(3) must be filed. Within two business days of certifying that at least one candidate is eligible to receive public financing under this Chapter, the Ethics Commission shall post a notice on its website, send out a press release and send written notice by regular or electronic mail to all other candidates running for the same City elective office and to any other person who has requested such notice.

(Added by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.154. INSUFFICIENT FUNDS IN ELECTION CAMPAIGN FUND.

(a) **REPORT BY CONTROLLER.** At the request of the Ethics Commission, the Controller shall provide a statement of the total amount of funds in the Election Campaign Fund.

(b) **INSUFFICIENT FUNDS.**

(1) Elections for Mayor. No later than August 1 before an election for Mayor, the Executive Director shall notify the Commission and the Board of Supervisors whether \$8.00 per resident, after subtracting 15% for the administrative expenses provided under

section 1.138(b)(2), exists in the Election Campaign Fund. If \$8.00 per resident, plus 15% for administrative expenses, does not exist in the Election Campaign Fund, the Commission may, in accordance with the fiscal provisions of the Charter, request a supplemental appropriation from the Board of Supervisors and the Mayor to provide additional funding to the Election Campaign Fund so that \$8.00 per resident, plus 15% for administrative expenses, exists in the fund for the upcoming election. This requirement shall not apply to any election held to fill the vacancy for the remainder of a term.

(2) Elections for the Board of Supervisors. No later than August 1 before an election for the Board of Supervisors, the Executive Director shall notify the Commission and the Board of Supervisors whether \$1.50 per resident, after subtracting 15% for the administrative expenses provided under section 1.138(b)(2), exists in the Election Campaign Fund. If \$1.50 per resident, plus 15% for administrative expenses, does not exist in the Election Campaign Fund, the Commission may, in accordance with the fiscal provisions of the Charter, request a supplemental appropriation from the Board of Supervisors and the Mayor to provide additional funding to the Election Campaign Fund so that \$1.50 per resident, plus 15% for administrative expenses, exists in the fund for the upcoming election. This requirement shall not apply to any election held to fill the vacancy for the remainder of a term.

(Added by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007)

SEC. 1.156. REPORT TO THE MAYOR AND BOARD OF SUPERVISORS.

Following each election at which the Mayor or members of the Board of Supervisors are elected, the Ethics Commission shall submit a report to the Mayor and Board of Supervisors. The report shall state the amount of public funds used to pay for election campaigns in that election and such other information as the Ethics Commission deems useful, including the number of candidates who received public funds; the number of nonparticipating candidates; the amount of qualified campaign expenditures made by all candidates in that election; and the amount of independent expenditures made in connection with the election.

(Added by Proposition O, 11/7/2000; amended by Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.158.

(Added by Proposition O, 11/7/2000; repealed by Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.160.

(Added by Proposition O, 11/7/2000; repealed by Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.160.5. DISCLOSURE AND FILING FOR PERSUASION POLLS

(a) DEFINITIONS.

Whenever in this Section the following words or phrases are used, they shall mean:

(1) "Persuasion poll" shall mean any telephone survey, or series of telephone surveys that are substantially similar or identical, that

(A) refers to a clearly identified candidate for City elective office or a City elective officer, other than in a basic preference question;

(B) includes at least one call made within 60 days prior to an election for the City elective office sought by the candidate named in the survey or a recall election regarding the City elective officer named in the survey;

(C) includes at least 1,000 completed calls, such as person-to-person discussions following the survey script; and

(D) for which at least two of the following are true:

(i) Each phone conversation in the survey takes less than four minutes on average to complete, excluding any sponsorship identification;

(ii) The survey includes fewer than three demographic inquiries regarding factors such as age, educational level, or marital status, sufficient to allow for the tabulation of results based on relevant subset(s) of the population consistent with standard polling industry practices;

(iii) The persons conducting the survey do not collect or tabulate survey results for all the phone conversations;

(iv) The survey includes an untrue statement about the candidate or officer described in section (a)(1)(A); or

(v) The survey is designed or intentionally conducted in a manner calculated to influence the vote of the respondent in the election described in subsection (a)(1)(B).

(2) "Basic preference question" shall mean:

(A) a question which provides a respondent with a list of names of candidates for City elective office without providing or implying any information regarding any candidate and asks which candidate the respondent supports in a particular race, or

(B) a question which names a City elective officer without providing or implying any information regarding the officer and asks whether the respondent supports or opposes the recall of that officer.

(3) "Payment" shall be defined as set forth in Government Code of the State of California (commencing at Section 81000); provided, however, that "payment" shall also include any enforceable promise to make a payment.

(4) "Refers to a clearly identified candidate for City elective office or a City elective officer" shall mean any communication that contains the candidate's or officer's name or nickname or makes any other unambiguous reference to the candidate or officer such as "your Supervisor" or "the incumbent."

(5) "Disclosure Date" shall mean:

(A) The date that a written formal agreement regarding the persuasion poll is made between the person making the calls and the poll sponsor(s) or the sponsor(s) agent;

(B) The date of the 1,000th call in the poll; and

(C) After a person has met the threshold under Subsection (B), the date of each 1,000th additional call in the poll.

(b) TELEPHONIC DISCLOSURE.

No person shall authorize, administer or make payment for a persuasion poll unless, at the beginning of each call, the person making the call identifies the person(s) making

payments for or authorizing the call by stating "This is a paid political advertisement by [Name of person(s)]," and, identifies the person making the call, if different from the sponsor, by stating "This call is conducted by [Name of person]." These disclosures shall be spoken at the same volume and speed as the rest of the communication so as to be clearly audible by the call recipient and otherwise appropriately conveyed for the hearing impaired. These disclosures shall be repeated upon request of the call recipient.

(c) FILING.

(1) Any person who authorizes, administers or makes payment for a persuasion poll shall, within 48 hours of each disclosure date, file an itemized statement with the San Francisco Ethics Commission. A person authorizing, administering or making payment for a persuasion poll is not required to file an itemized statement under this Section if the person is aware that another person authorizing, administering or making payment for the same persuasion poll has filed an authorized statement for the persuasion poll as required by this Section.

(2) Each itemized statement required to be filed under this Section shall be filed on a form promulgated by the San Francisco Ethics Commission and shall contain the following information:

(A) the full name, street address, city, state and zip code of each person who authorizes, administers or makes payment for the persuasion poll;

(B) the full name, street address, city, state and zip code of each person sharing or exercising direction and control over the person authorizing, administering or making payments for the survey;

(C) the dates during which the persuasion poll was conducted;

(D) for each day, the number of calls attempted to households in the City and County of San Francisco if the election described in subsection (a)(1)(B) is a City-wide election, or the number of calls to households in the district if the election described in subsection (a)(1)(B) is a district election;

(E) for each day, the number of individuals contacted and the number of messages left in households in the City and County of San Francisco if the election described in subsection (a)(1)(B) is a City-wide election, or the number of individuals contacted and the number of messages left in households in the district if the election described in subsection (a)(1)(B) is a district election;

(F) a detailed accounting of any payments of \$100.00 or more that the person has received from another person, which were used for conducting or administering the persuasion poll; such detailed accounting shall include the dollar amount or value of each payment; the date of the payment's receipt; the name, street address, city, state, and zip code of the person who made such payment; the occupation and employer of the person who made such payment, if any, or, if the person is self-employed, the name of the person's business; and the cumulative amount of payments received for the purpose of conducting or administering persuasion polls from that person during the calendar year;

(G) a copy of the script used in conducting the persuasion poll, if any, and a copy of every question asked in the survey and every statement made to respondents in the survey; and

(H) any other information required by the Ethics Commission consistent with the purposes of this Section.

(3) The filer shall verify, under penalty of perjury, the accuracy and completeness of the information provided in the itemized statement, and shall retain for a period of five years all books, papers and documents necessary to substantiate the itemized statements required by this Section.

(4) The Ethics Commission may require any itemized statement to be filed electronically and may permit any required statement to be filed by facsimile. The Ethics Commission shall promulgate regulations to implement this subsection before any person shall be required to file an itemized statement electronically or permitted to file a statement by facsimile.

(5) If any person files an itemized statement after any deadline imposed by this Section, the Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter, fine the person \$10.00 per day after the deadline until the statement is received by the Ethics Commission. The Ethics Commission may reduce or waive a fine if the Commission determines that the late filing was not willful and that enforcement will not further the purposes of this Chapter. The Ethics Commission shall deposit funds collected under this Section in the General Fund of the City and County of San Francisco.

(d) The Ethics Commission may adopt regulations exempting additional types of polls from the provisions of this Section to effectuate the purpose of this Section.

(Added by Ord. 266-07, File No. 071090, App. 11/14/2007)

SEC. 1.161. DISCLOSURE AND FILING REQUIREMENTS FOR MASS MAILINGS.

(a) MASS MAILINGS BY CANDIDATES.

(1) Disclosure. In addition to the requirements set forth in California Government Code Section 84305, each mass mailing paid for by a candidate committee shall include on the outside of each piece of mail in the mass mailing the following statement in not less than 14 point type and in a color or print which contrasts with the background so as to be easily legible: "paid for by _____ (insert candidate committee's name and street address)." A post office box may be stated in lieu of a street address if the candidate committee's address is a matter of public record with the Ethics Commission.

(2) Filing.

(i) Each candidate committee that pays for a mass mailing shall, within five working days after the date of the mailing, file two pieces of the mailing with the Ethics Commission.

(ii) Each candidate committee that pays for a mass mailing shall, within five business days after the date of the mailing, file an itemized disclosure statement with the Ethics Commission for that mailing.

(iii) Each candidate committee that pays for a mass mailing shall file two pieces of mail and the itemized disclosure statement required by Subsections (a)(2)(i) and (a)(2)(ii) within 48 hours of the date of the mailing if the date of the mailing occurs within the final 16 days before the election.

(iv) Every mass mailing filed pursuant to this subsection shall be clearly legible.

(b) MASS MAILINGS BY PERSONS OTHER THAN CANDIDATES.

(1) Disclosure. Any person who makes independent expenditures for a mass mailing which supports or opposes any candidate for City elective office shall place the following statement on the mailing in typeface no smaller than 14 points:

Notice to Voters (Required by City and County of San Francisco) This mailing is not authorized or approved by any candidate for City and County office or by any election official. It is paid for by [name and committee identification number]. [address, city, state]. Total Cost of this mailing is [amount].

(2) Filing.

(i) Each person who makes independent expenditures of \$1,000 or more for a mass mailing which supports or opposes any candidate for City elective office shall, file two pieces of the mailing and an itemized disclosure statement for the mailing with the Ethics Commission, unless that person is otherwise required to file disclosures regarding the communication under Section 1.134, 1.152, or 1.161.5 of this Code.

(ii) Any filing required by this Section shall be submitted within five business days after the date of the mailing if the date of the mailing is more than 16 days before the election, and within 48 hours after the mailing if the date of the mailing occurs within the final 16 days before the election.

(iii) Every piece of mail filed pursuant to this Section shall be clearly legible.

(iv) The Ethics Commission may permit any required statement or mailing to be filed by facsimile.

(Amended by Ord. 261-07, File No. 071290, App. 11/14/2007; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.161.5. DISCLOSURE AND FILING FOR ELECTIONEERING COMMUNICATIONS.

(a) DISCLOSURE STATEMENTS.

(1) Every electioneering communication shall include a disclosure statement identifying the person who paid for the communication. Such disclosure statement shall, at a minimum, contain the following words, "paid for by _____ (insert the name of the person who paid for the communication)."

(2) Any disclosure statement required by this section to be in printed form shall be printed in a type and color so as to be easily legible to the intended public. Such disclosure statement shall be printed in at least 14 point type and in a color or print that contrasts with the background so as to be easily legible to the intended public.

(3) Any disclosure statement required by this Section to be in spoken form shall be spoken at the same volume and speed as the rest of the communication so as to be clearly audible and understood by the intended public and otherwise appropriately conveyed for the hearing impaired.

(b) REPORTING OBLIGATIONS.

(1) Every person who makes payments for electioneering communications in an aggregate amount of \$1,000 during any calendar year shall, within 48 hours of each disclosure date, file an itemized disclosure statement with the Ethics Commission, unless that person is otherwise required to file disclosures regarding the communication under Section 1.134, 1.152, or 1.161 of this Code.

(2) Each itemized disclosure statement required to be filed under this Section shall contain the following information:

(A) the full name, street address, city, state and zip code of the person making payments for electioneering communications;

- (B) the name of any individual sharing or exercising direction and control over the person making payments for electioneering communications;
 - (C) the total amount of payments made by the person for electioneering communications during the calendar year;
 - (D) a detailed description of each payment made by the person for electioneering communications during the calendar year, provided that the person has not already reported such payments on an itemized disclosure statement filed under this Section; such detailed description shall include the date the payment was made, the full name and address of the person to whom the payment was made; the amount of the payment, and a brief description of the consideration for which each payment was made;
 - (E) a detailed accounting of any payments of \$100 or more that the person has received from another person, which were used for making electioneering communications, provided that the person has not already reported such payments received on an itemized disclosure statement filed under this Section; such detailed accounting shall include the dollar amount or value of each payment, the date of the payment's receipt, the name, street address, city, state, and zip code of the person who made such payment, the occupation and employer of the person who made such payment, if any, or, if the person is self-employed, the name of the person's business, and the cumulative amount of payments received for the purpose of making electioneering communications from that person during the calendar year;
 - (F) the total amount of all payments reported under Subsection (E) during the calendar year;
 - (G) a legible copy of the electioneering communication if in printed form, or a transcript of the electioneering communication if in spoken form; and
 - (H) any other information required by the Ethics Commission consistent with the purposes of this Section.
- (3) The filer shall verify, under penalty of perjury, the accuracy and completeness of the information provided in the itemized disclosure statement, and shall retain for a period of five years all books, papers and documents necessary to substantiate the itemized statements required by this Section.

(4) The Ethics Commission may permit any required statement or mailing to be filed by facsimile.

(c) DEFINITIONS. Whenever in this Section the following words or phrases are used, they shall mean:

(1) "Disclosure Date" shall mean:

(A) the first date during any calendar year when an electioneering communication is distributed after a person has made payments aggregating \$1,000.00 for electioneering communications; and

(B) after a person has met the threshold under Subsection (A), any date during that same calendar year when an electioneering communication is distributed, if that same person made any payments for such electioneering communication.

(2) "Distributed" shall mean any act that permits an electioneering communication to be viewed, read or heard.

(3) "Electioneering Communication" shall mean any communication, including but not limited to any broadcast, cable, satellite, radio, internet, or telephone communication, and

any mailing, flyer, doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed advertisement, that:

(A) refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election; and

(B) is distributed within 90 days prior to an election for the City elective office sought by the candidate or a recall election regarding the City elective officer to 500 or more individuals who are registered to vote or eligible to register to vote in the election or recall election. There shall be a rebuttable presumption that any that any broadcast, cable, satellite, or radio communication and any sign, billboard or printed advertisement is distributed to 500 or more individuals who are eligible to vote for or against the candidate clearly identified in the communication.

(C) The term "Electioneering Communication" shall not include:

(i) communications that constitute independent expenditures under this Chapter;

(ii) communications made by a slate mailer organization if such communications are required to be disclosed under the California Political Reform Act, California Government Code Section 81000, et seq.;

(iii) communications paid for by the City or any other local, State or Federal government agency;

(iv) non-recorded communications between two or more individuals in direct conversation unless such communications are made by telephone and at least one of the individuals is compensated for the purposes of making the telephone communication;

(v) communications that appear on bumper stickers, pins, stickers, hat bands, badges, ribbons and other similar memorabilia;

(vi) news stories, commentaries or editorials distributed through any newspaper, radio station, television station, or other recognized news medium unless such news medium is owned or controlled by any political party, political committee or candidate;

(vii) communications to all members, employees and shareholders of an organization, other than a political party, provided that such communications do not constitute general public advertising such as, but not limited to, broadcasting, billboards, and newspaper advertisements;

(viii) communications that occur during a candidate debate or forum; and

(ix) communications made solely to promote a candidate debate or forum made by or on behalf of the person sponsoring the debate or forum, provided that such communications do not otherwise discuss the positions or experience of a candidate for City elective office or a City elective officer who is the subject of a recall election.

(4) "Internet Communication" shall include paid internet advertisements such as "banner" and "pop up" advertisements, paid emails or emails sent to addresses purchased from another person, and similar types of internet communications as defined by the Ethics Commission by regulation, but shall not include web blogs, listserves sent to persons who have contacted the sender, discussion forums, or general postings on web pages.

(5) "Payment" shall be defined as set forth in Government Code of the State of California (commencing at Section 81000); provided, however, that "payment" shall also include any enforceable promise to make a payment.

(6) "Refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election" shall mean any communication that

contains the candidate's or officer's name, nickname or image or makes any other unambiguous reference to the candidate or officer such as "your Supervisor" or "the incumbent."

(D) REGULATIONS. The Ethics Commission shall issue regulations implementing this Section, including regulations defining all members, employees and shareholders of an organization.

(Added by Ord. 71-05, File No. 041489, App. 4/15/2005; amended by Ord. 75-05, File No. 050624, App. 4/27/2005; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.162. DISCLOSURE REQUIREMENTS – CAMPAIGN ADVERTISEMENTS.

(a) DISCLOSURE.

Any campaign advertisement that urges support for or opposition to one or more candidates for City elective office shall include a disclosure statement identifying the person who paid for the advertisement. Such disclosure statement shall, at a minimum, contain the following words, "paid for by _____ (insert the name of the person who paid for the communication)" and appear at least once on the advertisement.

(1) Any disclosure statement required by this section to be in printed form shall be printed in a type and color so as to be easily legible to the intended public. Such disclosure statement shall be printed in at least 14-point type and in a color or print that contrasts with the background so as to be easily legible to the intended public.

(2) Any disclosure statement required by this section to be in spoken form shall be spoken at the same volume and speed as the rest of the communication so as to be clearly audible and understood by the intended public and otherwise appropriately conveyed for the hearing impaired.

(b) DEFINITIONS.

For the purposes of this section, the term "campaign advertisement" means:

- (1) programming received by a television or radio;
- (2) a communication placed in a newspaper; periodical or magazine of general circulation;
- (3) posters, door hangers, and yard signs produced in quantities of 200 or more; and
- (4) a billboard.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 261-07, File No. 071290, App. 11/14/2007) (Derivation: Former Administrative Code Section 16.510-7; added by Proposition N, 11/7/95)

SEC. 1.162.5.

(Added by Ord. 228-06, File No. 060501, App. 9/14/2006; amended by Ord. 261-07, File No. 071290, App. 11/14/2007)

SEC. 1.163. DISCLOSURE REQUIREMENTS--RECORDED TELEPHONE MESSAGES.

Any recorded telephone message distributed to 500 or more individuals or households must include the following statement: "paid for by _____ (insert name of

person who paid for the recorded telephone message)." Statements required pursuant to this Section shall be audible and played at the same volume and speed as the rest of the recorded telephone message. Any person paying for a recorded telephone message must maintain a transcript of the message and a record of the number of distributed calls for each message.

(Added by Ord. 187-01, File No. 010779, App. 8/31/2001; amended by Ord. 141-03, File No. 030034, App. 6/27/2003)

SEC. 1.163.5. DISTRIBUTION OF CAMPAIGN ADVERTISEMENTS CONTAINING FALSE ENDORSEMENTS.

(a) PROHIBITION.

No person may sponsor any campaign advertisement that is distributed within 90 days prior to an election and that contains a false endorsement, where the person acts with knowledge of the falsity of the endorsement or with reckless disregard for the truth or falsity of the endorsement. A false endorsement is a statement, signature, photograph, or image representing that a person expressly endorses or conveys support for or opposition to a candidate or measure when in fact the person does not expressly endorse or convey support for or opposition to the candidate or measure as stated or implied in the campaign communication.

(b) DEFINITIONS. Whenever in this section the following words or phrases are used, they shall mean:

(1) "Campaign advertisement" is any mailing, flyer, doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, printed advertisement, broadcast, cable, satellite, radio, internet, or recorded telephone advertisement that refers to one or more clearly identified candidates or ballot measures. The term "campaign advertisement" does not include:

(A) bumper stickers, pins, stickers, hat bands, badges, ribbons and other similar campaign memorabilia;

(B) news stories, commentaries or editorials distributed through any newspaper, radio, station, television station or other recognized news medium unless such news medium is owned or controlled by any political party, political committee or candidate; or

(C) material distributed to all members, employees and shareholders of an organization, other than a political party;

(2) "Internet advertisement" includes paid internet advertisements such as "banner" and "pop-up" advertisements, paid emails, or emails sent to addresses purchased from another person, and similar types of internet advertisements as defined by the Ethics Commission by regulation, but shall not include web blogs, listserves sent to persons who have contacted the sender, discussion forums, or general postings on web pages.

(3) "Sponsor" means to pay for, direct, supervise or authorize the production of campaign advertisement.

(c) ENFORCEMENT PENALTIES. The penalties under section 1.170(a) of this Chapter do not apply to violations of this section. Notwithstanding the 60-day waiting period in section 1.168 of this Chapter, a voter may bring an action to enjoin a violation of this section immediately upon providing written notice to the City Attorney. A court may enjoin a violation of this section only upon a showing of clear and convincing evidence of a violation.

(Added by Ord. 228-06, File No. 060501, App. 9/14/2006)

SEC. 1.164. DUTIES OF ETHICS COMMISSION.

In addition to the other duties required under the Charter and the terms of this Chapter, the Ethics Commission shall:

- (a) Prepare and publish written instructions explaining the duties of persons, candidates and committees under this Chapter.
- (b) Determine whether required statements and declarations have been filed with the Ethics Commission, and, if so, whether they conform on their face with the requirements of this Chapter.
- (c) Notify promptly all persons, candidates and committees known to the Ethics Commission who have failed to file a statement in the form and at the time required by State and local law.
- (d) Report apparent violations of this Chapter to the District Attorney.
- (e) Compile and maintain a current list of all statements or parts of statements filed with the Ethics Commission pertaining to each candidate and each measure.
- (f) Cooperate with the District Attorney and the City Attorney in the performance of their duties as they are related to this Chapter.
- (g) Enforce or cause to be enforced the provisions of this Chapter.
- (h) Prepare and publish adequate procedures to notify all persons, candidates and committees in advance relative to filing dates and forms required by State and local law. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003) (Derivation: Former Administrative Code Section 16.512; amended by Ord. 292-76, App. 7/17/76; Ord. 386-95, App. 12/14/95)

SEC. 1.166. DUTIES OF ENFORCEMENT AUTHORITY.

In addition to the other duties required of him or her under the provisions of this Chapter, the enforcement authority for civil enforcement shall review such campaign statements filed with the Ethics Commission as the Commission shall refer to him or her for legal compliance with the provisions of this Chapter.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered by Proposition O, 11/7/2000) (Derivation: Former Administrative Code Section 16.513; amended by Ord. 361-80, App. 8/5/80; Ord. 386-95, App. 12/14/95)

SEC. 1.168. ENFORCEMENT; ADVICE.

(a) ENFORCEMENT—GENERAL PROVISIONS.

Any person who believes that a violation of this Chapter has occurred may file a complaint with the Ethics Commission, City Attorney or District Attorney. The Ethics Commission shall investigate such complaints pursuant to Charter Section C3.699-13 and its implementing regulations. The City Attorney and District Attorney shall investigate, and shall have such investigative powers as are necessary for the performance of their duties under this Chapter.

(b) ENFORCEMENT—CIVIL ACTIONS.

The City Attorney, or any voter, may bring a civil action to enjoin violations of or compel compliance with the provisions of this Chapter.

No voter may commence an action under this Subsection without first providing written notice to the City Attorney of intent to commence an action. The notice shall include a statement of the grounds for believing a cause of action exists. The voter shall deliver the notice to the City Attorney at least 60 days in advance of filing an action. No voter may commence an action under this Subsection if the Ethics Commission has issued a finding of probable cause that the defendant violated the provisions of this Chapter, or if the City Attorney or District Attorney has commenced a civil or criminal action against the defendant, or if another voter has filed a civil action against the defendant under this Subsection.

A Court may award reasonable attorney's fees and costs to any voter who obtains injunctive relief under this Subsection. If the Court finds that an action brought by a voter under this Subsection is frivolous, the Court may award the defendant reasonable attorney's fees and costs.

(c) STATUTE OF LIMITATIONS.

(1) Criminal. Prosecution for violation of this Chapter must be commenced within four years after the date on which the violation occurred.

(2) Civil. No civil action alleging a violation in connection with a campaign statement required under this Chapter shall be filed more than four years after an audit could begin, or more than one year after the Executive Director submits to the Commission any report of any audit conducted of the alleged violator, whichever period is less. Any other civil action alleging a violation of any provision of this Chapter shall be filed no more than four years after the date on which the violation occurred.

(3) Administrative. No administrative action alleging a violation of this Chapter and brought under Charter Section C3.699-13 shall be commenced more than four years after the date on which the violation occurred. The date on which the Commission forwards a complaint or information in its possession regarding an alleged violation to the District Attorney and City Attorney as required by Charter Section C3.699-13 shall constitute the commencement of the administrative action.

(4) Collection of fines and penalties. A civil action brought to collect fines or penalties imposed under this Chapter shall be commenced within four years after the date on which the monetary penalty or fine was imposed. For purposes of this Section, a fine or penalty is imposed when a court or administrative agency has issued a final decision in an enforcement action imposing a fine or penalty for a violation of this Chapter or the Executive Director has made a final decision regarding the amount of a late fine or penalty imposed under this Chapter. The Executive Director does not make a final decision regarding the amount of a late fine or penalty imposed under this Chapter until the Executive Director has made a determination to accept or not accept any request to waive a late fine or penalty where such waiver is expressly authorized by statute, ordinance, or regulation.

(d) ADVICE. Any person may request advice from the Ethics Commission or City Attorney with respect to any provision of this Chapter. The Ethics Commission shall provide advice pursuant to Charter Section C3.699-12. The City Attorney shall within 14 days of the receipt of said written request provide the advice in writing or advise the person who made the request that no opinion will be issued. The City Attorney shall send a copy of said request to the District Attorney upon its receipt. The City Attorney shall within nine days from the date of the receipt of said written request send a copy of his or

her proposed opinion to the District Attorney. The District Attorney shall within four days inform the City Attorney whether he or she agrees with said advice, or state the basis for his or her disagreement with the proposed advice.

No person other than the City Attorney who acts in good faith on the advice of the City Attorney shall be subject to criminal or civil penalties for so acting; provided that, the material facts are stated in the request for advice and the acts complained of were committed in reliance on the advice.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered and amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 234-09; File No. 090989, App. 11/10/2009)
(Derivation: Former Administrative Code Section 16.514; amended by Ord. 361-80, App. 8/5/80)

SEC. 1.170. PENALTIES.

(a) **CRIMINAL.** Any person who knowingly or willfully violates any provision of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$5,000 for each violation or by imprisonment in the County jail for a period of not more than six months or by both such fine and imprisonment; provided, however, that any willful or knowing failure to report contributions or expenditures done with intent to mislead or deceive or any willful or knowing violation of the provisions of Section 1.114 of this Chapter shall be punishable by a fine of not less than \$5,000 for each violation or three times the amount not reported or the amount received in excess of the amount allowable pursuant to Section 1.114 of this Chapter, or three times the amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140.5, whichever is greater.

(b) **CIVIL.** Any person who intentionally or negligently violates any of the provisions of this Chapter shall be liable in a civil action brought by the civil prosecutor for an amount up to \$5,000 for each violation or three times the amount not reported or the amount received in excess of the amount allowable pursuant to Section 1.114 or three times the amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140.5, whichever is greater.

(c) **ADMINISTRATIVE.** Any person who intentionally or negligently violates any of the provisions of this Chapter shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for any penalties authorized therein.

(d) LATE FILING FEES

(1) **Fees for Late Paper Filings.** In addition to any other penalty, any person who files a paper copy of any statement or report after the deadline imposed by this Chapter shall be liable in the amount of ten dollars (\$10) per day after the deadline until the statement is filed.

(2) In addition to any other penalty, any person who files an electronic copy of a statement or report after the deadline imposed by this Chapter shall be liable in the amount of twenty-five dollars (\$25) per day after the deadline until the electronic copy or report is filed.

(3) **Limitation on Liability.** Liability imposed by Subsection (d)(1) shall not exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100), whichever is greater. Liability imposed by Subsection (d)(2) shall not exceed the

cumulative amount stated in the late statement or report, or two hundred fifty dollars (\$250), whichever is greater.

(4) Reduction or Waiver. The Ethics Commission may reduce or waive a fee imposed by this subsection if the Commission determines that the late filing was not willful and that enforcement will not further the purposes of this Chapter.

(e) MISUSE OF PUBLIC FUNDS. Any person who willfully or knowingly uses public funds, paid pursuant to this Chapter, for any purpose other than the purposes authorized by this Chapter shall be subject to the penalties provided in this Section.

(f) PROVISION OF FALSE OR MISLEADING INFORMATION TO THE ETHICS COMMISSION; WITHHOLDING OF INFORMATION. Any person who knowingly or willfully furnishes false or fraudulent evidence, documents, or information to the Ethics Commission under this Chapter, or misrepresents any material fact, or conceals any evidence, documents, or information, or fails to furnish to the Ethics Commission any records, documents, or other information required to be provided under this Chapter shall be subject to the penalties provided in this Section.

(g) PERSONAL LIABILITY. Candidates and treasurers are responsible for complying with this Chapter and may be held personally liable for violations by their committees. Nothing in this Chapter shall operate to limit the candidate's liability for, nor the candidate's ability to pay, any fines or other payments imposed pursuant to administrative or judicial proceedings.

(h) JOINT AND SEVERAL LIABILITY. If two or more persons are responsible for any violation of this Chapter, they shall be jointly and severally liable.

(i) EFFECT OF VIOLATION ON OUTCOME OF ELECTION.

(1) If a candidate is convicted of a violation of this Chapter at any time prior to his or her election, his or her candidacy shall be terminated immediately and he or she shall be no longer eligible for election, unless the court at the time of sentencing specifically determines that this provision shall not be applicable. No person convicted of a misdemeanor under this Chapter after his or her election shall be a candidate for any other City elective office for a period of five years following the date of the conviction unless the court shall at the time of sentencing specifically determine that this provision shall not be applicable.

(2) If a candidate for Mayor or the Board of Supervisors is found by a court to have exceeded the Individual Expenditure Ceiling in this Chapter by ten percent or more at any time prior to his or her election, he or she is ineligible for election, unless the court specifically determines that this provision shall not be applicable. If feasible, the candidate's name shall be removed from the ballot. No candidate for Mayor or the Board of Supervisors who is found by a court to have exceeded the Individual Expenditure Ceiling in this Chapter by ten percent or more after his or her election shall be a candidate for any City elective office for a period of five years following the court's determination unless the court specifically determines that this provision shall not be applicable. The Ethics Commission may make a recommendation to the Board of Supervisors that a candidate found by a court to have exceeded the Individual Expenditure Ceiling in this Chapter by ten percent or more should be removed from office.

(3) A plea of nolo contendere shall be deemed a conviction for purposes of this Section.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered and amended by Proposition O, 11/7/2000; Ord. 141-03, File No. 030034, App. 6/27/2003; Ord. 3-06, File No. 051439, App. 1/20/2006; Ord. 31-06, File No. 051773, App. 2/23/2006; Ord. 228-06, File No. 060501, App. 9/14/2006; Ord. 268-07, File No. 071003, App. 11/26/2007; Ord. 234-09; File No. 090989, App. 11/10/2009) (Derivation: Former Administrative Code Section 16.515; amended by Ord. 361-80, App. 8/5/80; Proposition N, 11/7/95)

SEC. 1.171. ISSUANCE OF SUBPOENAS.

The Ethics Commission, including its Executive Director, may issue subpoenas in furtherance of its duties under the Charter including, but not limited to, audits of committees and enforcement of the provisions of this Chapter.

(Added by Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.172. EXTENSION OF DEADLINES THAT FALL ON WEEKENDS AND HOLIDAYS.

The Ethics Commission may, by regulation, extend any deadline imposed by this Chapter that falls on a Saturday, Sunday or holiday on which the Ethics Commission is authorized by law to close.

(Added by Ord. 228-06, File No. 060501, App. 9/14/2006)

(Derivation: Former Administrative Code Section 1.172 was added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered by Proposition O, 11/7/2000; repealed by Ord. 141-03, File No. 030034, App. 6/27/2003)

SEC. 1.174. EFFECT OF VIOLATION ON CERTIFICATION OF ELECTION RESULTS.

The Director of Elections shall not issue any certificate of nomination or election to any candidate until all of the candidate's campaign declarations, statements, or reports required under State and local law have been filed.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered by Proposition O, 11/7/2000; amended by Ord. 141-03, File No. 030034, App. 6/27/2003) (Derivation: Former Administrative Code Section 16.517; amended by Ord. 114-76, App. 4/2/76)

SEC. 1.175. IMPLEMENTING REGULATIONS; FORMS.

Pursuant to Charter Section 15.102, the Ethics Commission shall adopt regulations to implement this Chapter. The Ethics Commission shall also specify the format and content of all forms and statements required to be filed under this Chapter.

(Added by Ord. 234-09; File No. 090989, App. 11/10/2009)

SEC. 1.176. RULES OF CONSTRUCTION.

This Chapter shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this Chapter which does not directly affect the jurisdiction of the Board of Supervisors or the City and County to control campaign contributions shall avoid the effect of this Chapter.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered by Proposition O, 11/7/2000) (Derivation: Former Administrative Code Section 16.518; amended by Ord. 114-76, App. 4/2/76)

SEC. 1.178. SEVERABILITY.

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; renumbered by Proposition O, 11/7/2000) (Derivation: Former Administrative Code Section 16.519; amended by Ord. 114-76, App. 4/2/76)

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ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

WYNNE S. STUDLEY
CHAIRPERSON

JOAN J. HARRIMAN
V. E-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: December 9, 2009

To: Members, Ethics Commission

From: John St. Croix, Executive Director

Re: Budget Proposal for Fiscal Year 2010/2011

As stated in earlier ED Reports, the Ethics Commission initial budget for Fiscal Year 2009/2010 was just over \$4 million. In addition, the Board of Supervisors restored \$1,283,858 in funds that the Mayor had "de-appropriated" from the Election Campaign Fund. Thus, on paper, our total budget for the current fiscal year is \$5,453,874.

It breaks down like this:

Operating budget	\$2,241,818
New ECF deposit	\$1,928,198
<u>Restoration funds</u>	<u>\$1,283,858</u>
Total	\$5,453,874
Mid-year cut	85,205
New total FY09/10	\$5,368,669

As reported in this month's ED Report, Budget instructions for the upcoming fiscal year direct each department to first identify 20% in cuts plus an additional 10% in contingency cuts. For the Commission, this translates to a \$431,322 cut, and an additional \$215,661 contingency cut, for a possible total of \$646,983 in cuts for Fiscal Year 2010-2011.

My recommendation for our budget proposal is the same principle as last year, when I offered the following language:

"Because of its unique position as an independent agency and while respectful of the budget process, the Commission usually does not follow budget instructions. As I see it, the Commission has three realistic choices before it regarding the budget request that it makes. In the first alternative, it can make a request for an increase based on the most recent incarnation of the five-year plan. The second option would be to submit a budget request at this year's figures. The third option would be to accept the requested cuts from the Mayor's office. The first option represents an option wherein the Commission asserts its independence from City government. The second option also recognizes the

Commission's inherent independence, but makes a gesture of conciliation towards the current significant budget shortfall. The third is simply following instructions."

Given the competing needs where the City faces a budget shortfall in excess of \$500 million and the Ethics Commission does not have all of the resources that it needs, it makes sense to follow the same path this year. Therefore, my recommendation is that we courteously submit a budget request of \$4,170,016, broken down as follows:

Operating budget	\$2,241,818 (this year's initial funding level)
<u>New ECF deposit</u>	<u>\$1,928,198 (required annually by statute)</u>
Total budget request	\$4,170,016

For the record, there remains a total of \$6,043,160 in funds that were "de-appropriated" by the Mayor's office from the Election Campaign Fund. The Mayor has committed to return some or all of these monies to the fund in Fiscal Year 2011/2012 as they are needed for public financing of that year's Mayoral election.

The current balance in the Election Campaign fund is \$3,969,280. I expect this to be more than sufficient to pay for the Supervisorial races in 2010. (\$1,323,345 was expended in the 2008 Supervisorial cycle.)

The historical funding of the Ethics Commission is as follows:

FY 94 - 95	\$157,000
FY 95 - 96	261,000
FY 96 - 97	313,274
FY 97 - 98	394,184
FY 98 - 99	475,646
FY 99 - 00	610,931
FY 00 - 01	727,787
FY 01 - 02	877,740
FY 02 - 03	1,156,295
FY 03 - 04	909,518
FY 04 - 05	1,052,389
FY 05 - 06	1,382,441
FY 06 - 07	8,416,109 (1,711,835 non-grant funding)*
FY 07 - 08	3,592,078 (2,261,877 non-grant funding)**
FY 08 - 09	5,453,874 (2,241,818 non-grant funding)***

*Includes 6,704,274 front-loaded funding for Mayoral Election Campaign Fund

**Includes 1,358,747 annual set-aside for the Election Campaign Fund

***Does not include \$85,205 mid-year budget reduction

Department: ETH : ETHICS COMMISSION

Fund Description	Total Funding
1G AGF General	

Sources of Funds**Sources Subobjects:**

20710	LOBBYIST REGISTRATION FEE	8,000	8,000
20711	CAMPAIGN CONSULTANT REGISTRATION FEE	15,000	15,000
25510	CAMPAIGN DISCLOSURE FINES	22,000	22,000
25520	LOBBY FINES	1,000	1,000
25521	CAMPAIGN CONSULTANT FINES	1,000	1,000
25530	ECONOMIC INTEREST FINES	1,000	1,000
25590	OTHER ETHICS FINES	1,000	1,000
60199	OTHER GENERAL GOVERNMENT CHARGES	1,000	1,000
GFS (1)	GENERAL FUND SUPPORT	5,403,874	5,403,874
Total Sources of Funds		5,453,874	5,453,874

(1) This figure represents the nondepartmental (citywide) general fund revenues required to support the department's operations.

Uses of Funds**Operating: AAA**

001	SALARIES	1,461,588	1,461,588
013	MANDATORY FRINGE BENEFITS	471,697	471,697
021	NON PERSONNEL SERVICES	138,194	138,194
040	MATERIALS & SUPPLIES	15,000	15,000
081	SERVICES OF OTHER DEPTS	155,339	155,339

Continuing Projects: ACP

PEC003	PUBLIC FINANCING OF ELECTION- MAYOR	3,212,056	3,212,056
Total Uses of Funds		5,453,874	5,453,874

Uses by Program Recap**Programs:**

FFF	ELECTION CAMPAIGN FUND	3,212,056	3,212,056
FET	ETHICS COMMISSION	2,241,818	2,241,818
Total Uses by Program Recap		5,453,874	5,453,874

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CITY AND COUNTY OF SAN FRANCISCO--NFAMIS
ORGANIZATION SUMMARY INQUIRY

12/08/2009
1:07 PM

BALANCE (Y,M,Q,A) : Y CURR/PRIOR PRD : CURRENCY CODE :
FISCAL MO/YEAR : 06 2010 DEC 2009 FUNDING PERIOD:
INDEX CODE :
ORGANIZATION : ETH ETHICS COMMISSION
CHAR / OBJECT : X
FDTP FUND SFND :
PROJECT PROJ DTL :
GRANT GRANT DTL :
USER CD :

S	CHAR	DESCRIPTION	BUDGET	ACTUAL	PREENC/ENC	BALANCE
	200	LICENSES, PERMITS	23,000	5,094		-17,906
	250	FINES, FORFEITURES	26,000	16,662		-9,338
	600	CHARGES FOR SERVIC	1,000	46		-954
		REVENUE TOTAL	50,000	21,802		-28,198
	001	SALARIES	1,461,588	530,886		930,702
	013	MANDATORY FRINGE B	471,697	181,111		290,586
	021	NON PERSONNEL SERV	138,990	56,952	58,194	23,844

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ORGANIZATION SUMMARY INQUIRY

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IANCE (Y,M,Q,A) : Y CURR/PRIOR PRD : CURRENCY CODE :
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 R / OBJECT : X
 TP FUND SFND :
 GJECT PROJ DTL :
 INT GRANT DTL :
 ER CD :

CHAR	DESCRIPTION	BUDGET	ACTUAL	PREENC/ENC	BALANCE
08	CITY GRANT PROGRAM	3,212,056	-4,371		3,216,427
00	MATERIALS & SUPPLI	15,999	3,307	3,358	9,334
09	PROJECT CARRYFORWA	757,224			757,224
01	SERVICES OF OTHER	157,721	16,996	140,725	
	EXPENDITURE TOTAL	6,215,275	784,881	202,277	5,228,116
	REVENUE LESS EXPE	-6,165,275	-763,079	-202,277	5,199,918

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ACTIVITY



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

EXECUTIVE DIRECTOR'S REPORT TO THE SAN FRANCISCO ETHICS COMMISSION For the Meeting of December 14, 2009

ANNETTE S. STUDLEY
CHAIRPERSON

STAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
COMMISSIONER

CHARLES L. WARD
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

1. Budget.

The City has asked for mid-year cuts of \$85,205 from the Ethics Commission for this fiscal year; the Commission submitted these cuts on December 5. In addition, the City has forecasted a \$522 million general fund deficit for the next fiscal year. Budget instructions provide that departments identify a 20 percent cut in their budgets and an additional 10 percent contingency cut. For the Commission, this translates to a \$431,322 cut, and an additional \$215,661 contingency cut, for a possible total of \$646,983 in cuts for Fiscal Year 2010-2011. The Commission's proposed budget for FY 10-11 will likely be due on February 1, 2010.

2. Investigation and enforcement program.

Since its last regular meeting on November 9, 2009, the Commission has received no new complaints. There are currently 11 complaints pending in the Commission's jurisdiction.

Category	# of Complaints
Campaign Finance	5
Conflict of Interest	3
Governmental Ethics	1
Lobbyist Ordinance	0
Campaign Consultant Ordinance	0
Sunshine Ordinance	2
TOTAL	11

3. Campaign finance disclosure program.

a. Filing deadline. The next filing deadline is February 1, 2010 for the Second Semi-Annual statement, which covers the reporting period beginning the day after the closing date of the last statement filed. If a person has not filed a campaign disclosure report in 2009, the reporting period is January 1, 2009 through December 31, 2009. Several candidates have already expressed an interest in running for office in November 2010. Staff has been conducting outreach for such potential candidates. Outreach to potential candidates includes contacting and setting up a one-on-one appointment with the candidate and/or his or her treasurer to discuss campaign finance processes and requirements. The purpose of this outreach is to inform first-time candidates and treasurers of their filing obligations prior to them engaging in campaign finance



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ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

EXECUTIVE DIRECTOR'S REPORT TO THE SAN FRANCISCO ETHICS COMMISSION For the Meeting of December 14, 2009

MIENNE S. STUDLEY
CHAIRPERSON

USAN J. HARRIMAN
VICE-CHAIRPERSON

EMI GUSUKUMA
COMMISSIONER

EILEEN HANSEN
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activity. As of December 4, the Campaign Finance Officer has met with 12 potential candidates for the November 2, 2010 election.

The Ethics Commission will hold required candidate trainings for the November 2, 2010 election starting January 12, 2010. A notice about the training dates has been emailed and mailed to all potential candidates. A list of training dates is available on the Commission's website.

Staff is providing training to new staff who joined the Commission as a result of recent City-wide bumping.

b. Collection of late filing fees and contribution forfeitures. Campaign finance collections as of December 8 for FY 09-10 totaled \$32,490, based on filings made during previous fiscal years and the current fiscal year. By comparison, campaign finance collections as of December 8 in prior fiscal years were as follows:

Fiscal year	Collections by Dec. 8	Total collections in FY
02-03	\$15,080	\$49,322
03-04	\$22,410	\$51,607
04-05	\$31,363	\$199,524
05-06	\$16,320	\$85,390
06-07	\$29,963	\$119,814
07-08	\$47,599	\$65,035
08-09	\$10,477	\$48,673

The \$32,490 amount is based on prior assessments as follows:

FY when assessed	Amount collected in 09-10
04-05	\$5,062.50
05-06	\$0
06-07	\$480.00
07-08	\$3,059.25
08-09	\$22,210.28
09-10	\$1,678.43
Total:	\$32,490.46

FY 08-09 waivers, as well as waivers from past years provided for comparison, are as follows:

FY when assessed	Amount assessed	Amount waived during FY
04-05	\$907,069	\$683,086
05-06	\$546,859	\$342,901
06-07	\$181,831	\$50,347
07-08	\$217,444	\$159,880
08-09	\$322,529	\$107,176
09-10	\$40,247	\$19,182

To date, the outstanding balance of late fees assessed from the current and previous years, including \$68,501 in fees that have been referred to the Bureau of Delinquent Revenues, is \$136,931, down from \$160,049 as last reported.

The current outstanding balance of contribution forfeitures assessed as a result of the defective reporting of contributor information is \$19,834, down from \$26,334 as last reported. The \$19,834 amount consists of forfeitures from the 2005-2006 filing periods and does not include forfeiture assessments from the 2008 filing period.

c. Status of accounts to San Francisco Bureau of Delinquent Revenues (BDR). The following chart provides details on pending accounts referred to BDR:

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
1	Committee to Elect Rebecca Silverberg	1220430	Lucia Paulazzo	5/6/05	\$21,086.00	\$21,086.00	\$21,086.00
2	Yick Tsun Society, Inc.	PEN1078	Florence Fang	8/16/05	\$7,550.00	\$7,550.00	\$7,550.00
3	SEIU Local 87	PEN951	Mike Garcia & Michael Baratz	8/25/05	\$14,350.00	\$14,350.00	\$7,600.00
5	Johnnie Carter for Community College Board	1226264	Johnnie Carter	6/16/06	\$9,520.00	\$6,595.00	\$6,595.00
7	Micheas Herman	PEN788	Micheas Herman	6/26/06	\$100.00	\$100.00	\$100.00
8	San Franciscans for Fair & Honest Government	1258209	Erik Howell	10/20/06	\$4,659.22	\$4,659.22	\$4,659.22
9	Myrna Viray Lim for District 11 Supervisor	1256697	Jia Jun Chen	4/27/07	\$3,855.00	\$3,855.00	\$3,855.00
10	Committee to Elect M. Valle for Treasurer	1278937	Manuel B. Valle	6/14/07	\$5,525.00	\$5,525.00	\$5,525.00
11	Shawn Westcott	PEN1102	Shawn Westcott	6/18/07	\$100.00	\$100.00	\$100.00
12	Committee to Elect Vilma Guinto-Peoro Supervisor District #2	1291394	Vilma Guinto-Peoro	6/18/07	\$10.00	\$10.00	\$10.00
13	Bill Barnes for District 5	1265969	Alix Rosenthal	1/3/08	\$3,120	\$3,110	\$3,110
14	Care Not Cash	1244505	Ronald Jin	2/29/08	\$5,331	\$5,331	\$5,331
15	Omar Khalif for	1287030	Omar Khalif	7/30/09	\$1,800	\$1,800	\$1,800

#	Committee/ Filer	ID #	Treasurer or Responsible Officer	Date referral effective	Original amount referred	Last month's balance	Current balance (Changes are in bold)
	Board of Educ.						
16	Myrna Lim for District 11 Sup	1306882	Myrna Lim	7/30/09	\$1,180	\$1,180	\$1,180

d. **Electronic filing.** On April 30, 2009 staff provided 60 days' notice that committees subject to the electronic filing requirements under section 1.112(b) will be required to file FPPC Forms 461 (Independent Expenditure Committee and Major Donor Committee Campaign Statement) and 465 (Supplemental Independent Expenditure Report) in electronic format starting July 1, 2009. Electronically filed forms and data will be made available to the public on the Ethics Commission's web site. This new electronic filing requirement is in addition to the paper filing requirement. Forms 461 and 465 were added to the San Francisco Electronic Disclosure System (SFEDS) through the Commission's contract with Netfile.

4. Revenues report.

For FY 09-10, the Commission is budgeted to generate \$50,000 in revenues. As of December 8, 2009, the Commission received \$40,464 as summarized below. The figure represents collection of approximately 81 percent of expected revenues for FY 09-10.

Revenues Received as of December 8, 2009

Source	Budgeted Amount FY 09-10	Receipts
Lobbyist Fees	\$8,000	\$1,856
Other Ethics General	\$1,000	\$49
Campaign Finance Fines	\$22,000	\$32,424
Campaign Consultant Fees	\$15,000	\$3,500
Lobbyist Fines	\$1,000	\$400
Statements of Economic Interests Fines	\$1,000	\$1,380
Other Ethics Fines	\$1,000	\$855
Campaign Consultant Fines	\$1,000	
Total	\$50,000	\$40,464

5. Public financing/Campaign finance audit program.

Staff is working on audits of candidates who received public financing in 2008. In order to incorporate recent changes to CFRO, staff is updating forms and manuals for the November 2010 election.

6. Lobbyist program.

As of November 30, 2009, there were 38 lobbyists registered with the Commission. In the 2009-2010 fiscal year, \$1,856.25 in lobbyist fees and \$400.00 in fines have been collected, for a total of \$2,256.25. The fourth quarter 2009 filing deadline is January 15, 2010.

Beginning January 1, 2010, lobbyists will be required to file on a monthly basis, with the first report due by February 15, 2010, covering the period January 1-31, 2010.

7. Campaign Consultant program.

As of December 8, 2009, 27 campaign consultants are active and registered with the Commission. \$3,500 in registration fees have been collected in the 2009-2010 fiscal year.

The next quarterly report is due December 15, 2009. Staff has mailed reminder notices to all active campaign consultants. Staff will notify all active campaign consultants regarding the annual re-registration deadline, which falls on January 4, 2010.

8. Statements of Economic Interests.

April 1 was the deadline for designated officers and employees to file their annual Statement of Economic Interests ("SEIs"). Staff continues to process incoming SEIs and Sunshine Ordinance Declarations, by logging them into a database and scanning them for upload to the Commission's website. A list of filers is viewable on the Commission's website.

Enforcement staff continues to audit departments for SEI filing compliance for 2007 and 2008. Staff is also reviewing all SEIs filed with the Commission.

9. Outreach and Education.

On November 6, 2009, staff met with a delegation of 20 members from the China Ninxia Public Administration Training Group. The delegation was hosted by the U.S. – China Exchange Council, a California non-profit that has exchanged delegates between the U.S. and China for education and friendship development purposes. The group was interested in discussing the work of the Ethics Commission, conflicts of interest, government integrity and the prevention of corruption.

On November 24, staff met with a delegation of 15 members of the China Academy of Social Science Training Group, which was also hosted by the U.S. – China Exchange Council.

On December 4, staff facilitated a Governmental Ethics and Statements of Incompatible Activities (SIA) Training to the Department of Children, Youth, and Their Families. Despite recent staffing changes, the Ethics Commission will continue to offer the SIA Trainings. The Ethics Training for City Employees, SIA Training, and Statement of Economic Interests (SEI) Training will be offered online.

The following trainings are the currently scheduled in-person trainings for 2010:

- Lobbyist Ordinance Training: January 13
- Candidates' Training: January 12, May 12, July 15, and August 19,

- Understanding Expenditure Ceilings: September 21

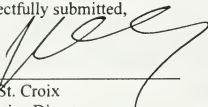
In addition to in-person trainings, the staff has produced and posted the various web trainings on the Ethics Commission website under "Education." The following trainings are currently available on the website:

- Training for Treasurers of Non-Candidate Recipient Committees
- Building Inspection Commission, Access Appeals Commission, Board of Examiners and Unreinforced Masonry Building Appeals Board SIA Training
- Ethics Training for City Employees

The following Trainings will be posted on the website in 2010:

- Candidates' Training
- Lobbyist Ordinance Training
- SIA Template Language Training
- SEI Training

Respectfully submitted,



John St. Croix
Executive Director

SAED Report\2009\12.14.09.doc

**San Francisco
Ethics Commission**



25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
Phone 252-3100 Fax 252-3112

Date: December 4, 2009

Re: Notice of Consideration of Proposed Regulations

At its regular meeting on Monday, December 14, 2009 at 5:30 p.m. in Room 408 City Hall, the San Francisco Ethics Commission will consider possible amendments to its regulations regarding the Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code section 2.100 et seq.). These amendments will address issues that could include but are not limited to clarifying when communications by a labor union might be deemed a contact under the Ordinance; permitting a business, firm, or organization to register and submit reports on behalf of individual lobbyists who are employed by the business, firm or organization; requiring each individual lobbyist to register with the Commission and submit information required under the Ordinance on the Commission's online filing system; and modifying current regulations to conform the revised Lobbyist Ordinance provisions that will take effect in January 2010.

At the same meeting, the Commission will also consider possible amendments to its regulations regarding the Campaign Finance Reform Ordinance (CFRO) (San Francisco Campaign and Governmental Conduct Code section 1.100 et seq.). These amendments will generally conform existing regulations to the revised CFRO sections that will take effect in January 2010.

The proposed amendments, along with respective staff reports, will be available from the Commission office and on its website when the agenda for the meeting is available on Thursday, December 10, 2009.

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Minutes of the Regular Meeting of
The San Francisco Ethics Commission
December 14, 2009
Room 408, City Hall

(DRAFT)

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I. Call to order and roll call.

Chairperson Studley called the meeting to order at 5:35 p.m.

COMMISSION MEMBERS PRESENT: Jamiene Studley, Chairperson; Susan Harriman, Vice-Chairperson; Emi Gusukuma (present at 5:38 p.m.), Commissioner; Eileen Hansen (present at 5:45 p.m.), Commissioner; Charles Ward, Commissioner.

STAFF PRESENT: John St. Croix, Executive Director (present at 5:42 p.m.); Mabel Ng, Deputy Executive Director; Steven Massey, Information Technology Officer; Garrett Chatfield, Investigator/Legal Analyst.

OFFICE OF THE CITY ATTORNEY: Andrew Shen, Deputy City Attorney.

OTHERS PRESENT: Charley Marsteller, and other unidentified members of the public.

MATERIALS DISTRIBUTED:

- Memorandum from Executive Director to Ethics Commission re: Contracting for the Electronic Filing System, dated December 8, 2009
- Memorandum from Executive Director to Ethics Commission re: Regulations Implementing Lobbyist Ordinance, dated December 9, 2009
- Lobbyist Ordinance, amendments operative January 1, 2010
- Memorandum from Executive Director to Ethics Commission re: Proposed amendments to CFRO regulations, dated December 9, 2009
- San Francisco Campaign and Governmental Conduct Code, amendments operative January 1, 2010
- Proposed Changes to Regulations to Campaign Finance Reform Ordinance
- Draft Minutes of the November 9, 2009 Regular Meeting of The San Francisco Ethics Commission
- Executive Director's Report to the Ethics Commission for the Meeting of December 14, 2009
- Memorandum from Executive Director to Ethics Commission re: Budget Proposal for Fiscal Year 2010/2011, dated December 9, 2009

II. Public comment on matters appearing or not appearing on the agenda that is within the jurisdiction of the Ethics Commission

None.

III. Consideration of the renewal of the Netfile contract to be extended for an

additional three-year term.

Chairperson Studley made remarks commemorating the life of former Commissioner Joe Lynn.

Motion 09-12-14-1 (Harriman/Ward) Moved, seconded and passed (4-0, Hansen absent) that the Commission finds that renewing the Netfile contract for an additional three-year term is the most efficient way for the Commission to provide electronic filing services related to the Commission's campaign finance, financial disclosure, and lobbyist reports.

Public Comment

None.

IV. Consideration of possible regulations to implement the Lobbyist Ordinance.

Decision Point 1 and 3

Deputy City Attorney Shen notified the Commissioners that a typographical error occurred in the memo citing the incorrect section of the code.

Motion 09-12-14-2 (Harriman/Gusukuma) Moved, seconded and passed (4-0, Hansen absent) that Commission adopt decision points 1 and 3, with decision point 1 amended to reflect the correct code section.

Public Comment

None.

Decision Point 2

Motion 09-12-14-3 (Harriman/Ward) Moved, seconded, and passed (4-0, Hansen absent) that the Commission adopt decision point 2 as proposed by staff.

Public Comment

None.

Decision Point 4

Commissioner Gusukuma stated that some contacts to City officials made by union members falls outside the exception of contract negotiations, and that the proposed regulation should be clear regarding what is and is not considered a contact.

DCA Shen stated that contacts by union members regarding anything not related to contract negotiations would be considered a contact for the purposes of the Ordinance.

Commissioner Studley stated that other contacts by union members are not prohibited; they are just considered as a contact under the Ordinance.

Motion 09-12-14-4 (Harriman/Ward) Moved, seconded, and passed (5-0) that the Commission adopt decision point 4 as proposed by staff.

Public Comment

None.

Decision Point 5

Information Technology Officer Massey stated in response to questions from Chairperson Studley and Commissioners Harriman and Ward, that the State of California also requires photos be published for lobbyists; the only difference is the State requires that the photos be in black and white.

Commissioner Studley stated that she wanted the regulation to be clear that a professionally-taken photograph is not required.

Commissioner Harriman stated that the language should be changed to "professional-like" quality photograph to clarify that the photo does not need to be taken by a professional photographer.

Motion 09-12-14-5 (Harriman/Gusukuma) Moved, seconded, and passed (5-0) that the Commission adopt decision point 5 with the amended language of "professional-like" quality.

Public Comment

Charley Marsteller also inquired as to what the State's standards were regarding lobbyist photographs.

V. Consideration of possible regulations to implement the Campaign Finance reform Ordinance (CFRO).

Commissioner Hansen stated that regulation 1.104-7 omits the definition of "member communication." Commissioner Harriman stated that the term is defined in another section.

Commissioner Hansen stated that in regulation 1.108-3 there is no definition of "campaign contingency." DCA Shen stated that the term is described in the code at section 1.108.

Chairperson Studley stated that there is no definition of "campaign trust account." DCA Shen stated that the term is also described in the Ordinance.

Deputy Director Ng responded to Commissioner Hansen that there has never been an instance in which a campaign purchased equipment with public funds.

DCA Shen clarified for the Commissioners that regarding regulation 1.143-2, the individual expenditure ceiling is raised only when the sum of both supportive and opposition spending exceeds \$143,000.

Chairperson Studley stated that she is concerned that the material specified by the regulations that allow an individual to demonstrate San Francisco residency is insufficient.

Commissioner Harriman stated that the presumption is that the material presented demonstrates residency.

Commissioner Hansen stated that regarding the proposed examples in decision point 14, it should have wording that clearly explains the amount of the expenditure ceiling and incremental increases.

Commissioner Hansen stated that there is a concern that candidates who accept public financing will always be behind financially than those that do not accept public financing. Executive Director St. Croix responded that without a mandatory public financing program, there will always be candidates who outspend publicly financed candidates.

Motion 09-12-14-6 (Harriman/Ward) Moved, seconded, and passed (5-0) that the Commission adopt all proposed decision points to the regulations implementing CFRO as amended, except decision points 3B and 11B.

Public Comment

Charley Marsteller stated that the public should have a clearer definition of what is considered residency, and that users of the voter pamphlet are different than online users.

Decision Point 3B

Motion 09-12-14-7 (Harriman/Gusukuma) Moved, seconded, and passed (5-0) that the Commission adopt proposed decision point 3B as proposed by staff.

Public Comment

None.

Decision Point 11B

Commissioner Hansen stated that a word change from "the" to "a" should be made on regulation 1.134-3 addressing the voluntary expenditure ceiling in subsections two and three.

Motion 09-12-14-8 (Harriman/Gusukuma) Moved, seconded, and passed (5-0) that the Commission adopt decision point 11B with the amended language in subsections 2 and 3.

Public Comment

None.

VI. Budget Discussion

Executive Director St. Croix stated that all City departments have been asked to make a 20% cut with a 10% contingency cut to their respective 2010/2011 budgets. He stated that the Commission should submit a budget request that neither increases nor decreases the budget from the current 2009/2010 amounts.

Commissioner Hansen stated that is a good strategy, but is concerned that there will not be an opportunity to increase Enforcement staff. Executive Director St. Croix stated that the 2010/2011 request would include funds for a fourth investigator.

Commissioner Ward stated that it is not realistic to expect an expansion of Commission programs during this time of declining City revenues.

Commissioner Hansen stated that the budget proposal should include funds to televise Commission meetings.

Motion 09-12-14-9 (Harriman/Gusukuma) Moved, seconded, and passed (4-1, Hansen dissenting) that the Commission approve the budget proposal.

Public Comment

Charley Marsteller stated that Enforcement appears to be able to handle its caseload currently.

VII. Closed Session

Motion 09-12-14-10 (Harriman/Gusukuma) Moved, seconded, and passed (5-0) that the Commission go into closed session.

Commission went into closed session at 6:47 p.m.
Commissioner Ward was excused at 6:47 p.m.

The Commission discussed action item b before item a. Present in the room were the Commission members (except Commissioner Ward), Executive Director St. Croix, Deputy Executive Director Ng, Investigator/Legal Analyst Chatfield, and Deputy City Attorney Shen. At 7:01 p.m., the Commission began its discussion of item a. All staff except Executive Director St. Croix left the room.

- a. Closed session held pursuant to the Ralph Brown Act, Government Code section 54957(b) and the Sunshine Ordinance section 67.109b): Public Employee Performance Evaluation: Executive Director, Ethics Commission.**

b. Closed session held pursuant to Charter section C3.699-13, Brown Act section 54956.9 (a) and (c) and Sunshine Ordinance section 67.10(d) to discuss existing litigation as defendant.

Conference with Legal Counsel: Existing litigation as defendant

Number of cases: 2

Myrna Lim v. City and County of San Francisco Ethics Commission et al., Case No. 08-472073 (S.F. Superior Court)

Allen Grossman v. San Francisco Ethics Commission et al., Case No. 09-509868 (S.F. Superior Court)

The Commission went back into open session at 7:19 p.m.

VIII. Discussion and vote regarding closed session action and deliberations.

Discussion and vote pursuant to Ralph Brown Act, Government Code section 54957.1 and Sunshine Ordinance 67.12 on whether to disclose any action taken of discussions held in closed session regarding public employee performance evaluation.

Discussion and vote pursuant to Brown Act section 54957.1 and Sunshine Ordinance section 67.12 on whether to disclose any action taken or discussions held in closed session existing litigation.

Motion 09-12-14-11 (Harriman/Gusukuma) Moved, seconded and passed (4-0, Ward absent) that the Ethics Commission finds that it is in the best interests of the public not to disclose its closed session deliberations re: public employee performance evaluation and existing litigation.

IX. Minutes of the Commission's regular meeting of November 9, 2009

Motion 09-12-14-12 (Gusukuma/Hansen) Moved, seconded, and passed (4-0, Ward absent) that the Commission adopt the minutes of the meeting of November 9, 2009.

Public Comment

None.

X. Executive Director's Report

Commissioner Hansen stated that the Report should notify the public of those individuals with outstanding fines owed to the Commission.

Public Comment

None.

XI. Items for Future Meetings

None.

Public Comment

None.

XII. Public comment on matters appearing or not appearing on the agenda that are within the jurisdiction of the Ethics Commission

None.

XIII. Adjournment

Motion 09-12-14-13 (Harriman/Gusukuma) Moved, seconded and passed (4-0, Ward absent) that the Ethics Commission adjourn.

The meeting was adjourned at 7:23 p.m.

Respectfully submitted,

Garrett Chatfield
Investigator/ Legal Analyst

